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Bloody Sunday Inquiry

Assessment of Week One (27 - 30 March 2000)

1. The Bloody Sunday Inquiry commenced public oral hearings on Monday, 27 March with the opening statement by Mr Christopher Clarke, Counsel for the Tribunal. His statement is intended to give form and structure to the forthcoming oral evidence to be given and should last for about three weeks at which time, the Inquiry will adjourn until May 8 [It is the view of the relatives' legal teams that the Inquiry may consider the emotive issue of where the soldiers will give evidence at that stage and that, whatever the conclusion, the decision will be subject to a judicial review]. It is expected that substantive oral hearings will not resume until September, to allow time for the legal teams to fully consider the huge amount of new evidence uncovered by the Inquiry. Mr Mythen and the undersigned attended as the Government's official observers.

Overview of Counsel's opening statement

2. Counsel stated that the clear aim of the Tribunal was to find the truth "pure and simple" and that his opening statement would deal with the following issues: political and historical background to the events of Bloody Sunday, the political and military planning leading up to Bloody Sunday, a consideration of the position of the IRA, analysis of what happened the day before the Army entered the Bogside, actions in various parts of the area on the day (e.g. Glenfada Park, Rossville Flats etc.), the orders given to the Parachute Regiment, the alleged admission of Joseph Friel about carrying a firearm and how Gerard Donaghy came to have nail bombs on him, an analysis of the various statements made to the press in the immediate aftermath, an examination of the various journalistic investigations and, finally, an analysis of the significant audio and audio visual material available.

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3. The first week has seen Counsel cover the first two matters and deal with such issues as the deployment of 1 Para, the policy relating to the use of firearms and lethal force, military intelligence regarding possible IRA activity on the day and other ancillary matters.

Main issues to arise in Week One

4. Clarke gave some background to the security situation in Derry around the time of Bloody Sunday, which he said was characterised by daily rioting and occasional sniper fire from IRA members in the Bogside. Military thinking on how to deal with the situation centred on a possible plan to eliminate the 'no-go' areas in the Bogside and the Creggan but it was concluded that an aggressive containment strategy was the best option.

5. The policy on the use of firearms and lethal force was dealt with extensively by Clarke, who uncovered the first indications of a possible 'shoot to kill' policy, contained in a briefing document written by General Ford (Deputy to Harry Tuzo, General Officer Commanding), in which he states that "the minimum force necessary to achieve a restoration of law and order is to shoot selective ringleaders amongst the Derry Young Hooligans". A draft and uncleared document written by a Colonel in Ford's staff on January 27 also recommends the use of lethal force as a last resort even though "it would not be the gunmen...but innocent members of the crowd" who would be killed. Consideration was also given by Clarke to the Yellow Card, a military guide to the use of firearms. He specifically mentioned instances where there may have been a breach of its principles on Bloody Sunday (e.g., firing over the heads of people which was not permitted but which a soldier stated he had done). Clarke also played an intercepted radio communication in which a soldier is ordered by his commander to shoot dead a civilian who has, according to the soldier, just thrown a nailbomb but who then appeared to be unarmed.

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6. Clarke dealt with the specific issue of military planning regarding the Bloody Sunday march itself. Evidence referred to by Clarke showed that it was originally intended that the RUC would play the lead role in policing the march. However, the march had been postponed from January 16 to January 30 and by then it was the Army who were to be in command at all levels. Despite the reservations of the RUC Divisional Commander, it was decided to stop the march from leaving the Bogside and Creggan area and, to this end, substantial reinforcements were drafted in, including the First Battalion of the Parachute Regiment (1 Para).

7. Clarke then analysed the decision to use 1 Para as the arresting force for the intended "arrest and scoop-up operation" which was to be undertaken on the day. Clarke referred to several reports that 1 Para were considered "the roughest and toughest" outfit in Northern Ireland and that several commanders in NI refused to work with them again. There was evidence heard that, in July of 1971, 1 Para conducted an 'aggro' search of the Bogside in an effort to draw out and engage the IRA but there were denials by Captain Jackson of 1 Para that this ever occurred. Jackson's statement to the Tribunal played down comments he is reported to have made afterwards that 1 Para wanted to "sweep though" the 'no-go' areas of Derry, describing them as "the bravado of a young officer".

8. Consideration was given by Clarke to the degree to which the tactics to be employed in the conduct of the arrest operation were teased out by the military, e.g. why 1 Para were to be used and the *modus operandi* of the operation itself. Ford contended that while there were disadvantages in using a force unfamiliar with both the geography and military situation in those areas at the time, they were the only force available to him. In terms of the operation order itself, while there were specific axes of approach delineated in the order there also appeared to be an implicit understanding on the part of the commanders that it would require a

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penetration of the Bogside to the Rossville Flats.

9. Clarke referred to several anonymous statements regarding possible IRA activity leading up to and on the day of the march itself but it was unclear, he said, whether this informed military planning for the march. He also stated that the Inquiry had uncovered much less photographic evidence than it thought it would, given that there were 10 army photographers deployed on the day.

Mood amongst the relatives and legal teams at the end of Week One

10. Generally speaking, the mood amongst the relatives and legal teams was positive. They both expressed their appreciation of our presence and of the Government's continuing and active interest in the issue [Martin McGuinness and Paul Herron, a local SDLP official, echoed these comments when we met them during the course of the week]. There was a sense of relief amongst the relatives that the Inquiry had begun its work and, throughout the week, they remained calm and determined. There was a sense of anticipation on the part of the relatives as Clarke neared his consideration of the actual events on Bloody Sunday and, overall, they appeared to be satisfied with progress thus far. I spoke to Michael McKinney (a relative and one of the family liaison workers with the Bloody Sunday Trust) who made the point that the Inquiry was an historic opportunity for the relatives to have their stories officially and indelibly recorded.

11. Amongst the legal teams, there was a similar sense of satisfaction, coupled however, with some concerns regarding both Clarke's treatment of the new evidence and the fact that they still had not had full sight of all of the documents to which he was referring. However, Peter Madden, of Madden and Finucane, stated that their role was limited at this initial stage and that they would have the opportunity to balance Clarke's treatment of the evidence, as necessary, when they give their opening presentation.

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12. Other commentators, such as Eamonn McCann, shared the concerns of the legal teams and, in conversation with him, McCann said that it was when the "shooters" gave statements that the Inquiry would "really begin".

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Security Section

31 March 2000

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