

# Bloody Sunday and the Report of the Widgery Tribunal

## **The Irish Government's Assessment of the New Material**

Presented to the British Government in June 1997

### **Contents**

Preface

Introduction

Summary and Significance of the New Material

    Eyewitness Statements

    Statements given to the Government

    Soldiers' Statements – Report by Prof. Walsh

    Archival Material

    Transcript of Statements by Para AA

    Medical Evidence

    New Ballistics Information

    Radio Transcripts

    Channel Four News Reports

    Testimony of Soldiers on Derry Walls

The Widgery Report and the New Material

Conclusions

## Preface

30 January, 1997 marked the 25th anniversary of the killing of thirteen people and the wounding of a further fourteen (one of whom was to die shortly afterwards) in Derry in 1972 by the British Army. The passage of those years has not lessened the meaning of what happened on that day, summed up by the term synonymous with it, "Bloody Sunday", the trauma of which sent shock waves of anger, grief and indignation that were felt throughout the island of Ireland, the wider Irish community abroad and the international community.

The passage of twenty five years has not dimmed the memories of that day for those who were present and particularly for those who lost loved ones. Memories are vividly recalled with deeply felt emotion about lost fathers, sons and brothers. The Government is acutely aware that time has not diminished this sense of pain and loss. It is also aware that their grief has been deepened by their belief, widely shared, that the events of Bloody Sunday have yet to be set out in a truthful and credible official account. The Bloody Sunday relatives believe that the Report of Lord Widgery was a deliberately incomplete and wilfully misleading official version of events designed for the sole purpose of exculpating the actions of the British Army.

The Government has long shared the widespread view that the Widgery Report was unsatisfactory and that it did not represent the truth of what happened on that day. Indeed, the very disregard with which the Widgery Report was viewed by nationalists, particularly those in Derry, has meant that they have largely ignored it, so far removed was its version of events from the reality of what they believed happened in Derry on 30 January 1972. On the other hand, for the British authorities, the Widgery Report remains the official version of events. On the basis of the Widgery Report, compensation was granted to the next of kin in 1974 and in 1992 the British confirmed the innocence of those killed by reference to the Report's finding that none were found guilty.

The emergence of new material and the re-evaluation of the available evidence which coincided with the twenty fifth anniversary of Bloody Sunday has refocused attention on the events of that day and on the Widgery Report. It has reawakened and deepened the long standing doubts about the Widgery Report and suggested a dramatically different version of events to that offered in the official account. The Government believed that this new material, the very serious issues raised by the emerging picture of what actually happened on Bloody Sunday and the long standing concerns of the Bloody Sunday relatives, warranted, in the first instance, a clear and thorough assessment of the material which has emerged recently, particularly in terms of its implications for the credibility of the Widgery Report. The Government has, accordingly, had such an assessment prepared by its officials.

The Government has been very conscious of the power of the events of Bloody Sunday and the Widgery Report to evoke deep emotions so evidently reflected in the commemorations twenty five years later. It has been very aware of and, it hopes, sensitive to the wishes and feelings of the Bloody Sunday relatives, as it has regarding all the victims of violence in Northern Ireland. The Government believes that the process of healing, reconciliation and ultimately of peace is advanced by a willingness on all sides and on behalf of all victims to acknowledge the over-riding values of truth and justice. These considerations have formed the basis of the Government's approach in seeking to assess the significance of the new material regarding Bloody Sunday and particularly its significance for the Report of the Widgery Tribunal of Inquiry.

## Introduction

1. The new material which formed the basis of the Government's assessment can be summarised as follows:

(i) Eyewitness Bloody Sunday, The Truth, edited by Don Mullan (1997): this publishes a selection of civilian eyewitness statements drawn from over 500 accounts given to the Northern Ireland Civil Rights Association and the National Council for Civil Liberties (hereafter NICRA/NCCL) which were submitted to the Widgery Tribunal but not substantively considered by it. In addition to these, the book contains accounts of recently released archival material, an assessment of the significance of intercepted Army and RUC radio messages, and preliminary medical and ballistic reassessments. The material combines to form a profoundly different and vividly portrayed version of events which is distinctly at odds with that presented by the Widgery Report. It strongly indicates that the Widgery Inquiry was partisan and selective in the evidence which it chose to consider and accept. Significantly, Don Mullan concludes on the basis of a variety of sources that shots were fired by the British Army from the vicinity of Derry Walls, that these shots hit a number of civilians and that the evidence of three of the fatalities indicates that they died as a result of these shots. Lord Widgery never considered such a possibility despite evidence to that effect having been available to him.

(ii) The Bloody Sunday Tribunal of Inquiry, a resounding defeat for truth, justice and the rule of law by Professor Dermot Walsh (1997): this includes an analysis of recently released statements made by soldiers initially to the Military Police and later to the Treasury Solicitors on and after 30 January 1972 which were not made available at the time to Counsel for the next of kin. The study has found that these statements contained substantial and material inconsistencies, discrepancies and alterations. While the disparities between the statements by and between the soldiers were plainly evident to the staff of the Tribunal, they were not made available to Counsel for the next of kin despite their obvious material relevance both individually and collectively. Prof. Walsh argues that this failure, an effective concealment of relevant material by the Tribunal, undermined the cross examination process and rendered the Widgery Report fatally flawed. Prof. Walsh also considers the significance of other archival material, recently released by the British Public Record Office, relating to the operation of the Tribunal and concludes that its operation was inherently biased against the victims and in favour of the British Army. He also provides an analysis of the other features of the Inquiry, most notably the fact that it derogated from the recommendations of the Salmon Report on fair legal representation, which helped undermine its fairness and balance toward the victims and their relatives.

(iii) Channel Four News has broadcast a number of interviews with individuals whom Channel Four believe to have been soldiers on duty in Derry on Bloody Sunday. These interviews support allegations that shots were fired from the vicinity of Derry Walls by the British Army, make claims that military command and control was absent for a period in which "shameful and disgraceful acts" were being perpetrated, and contain assertions that officials working for Lord Widgery changed the version of events presented by at least one soldier.

## Introduction

(iv) A Dublin newspaper, the Sunday Business Post, published extracts from a very disturbing account, reputedly by a member of 1 Para, of the actions of members of his unit in Rossville Street and Glenfada Park which included the deliberate killing, variously, of unarmed and fleeing civilians, some of whom had already been wounded by British Army fire. The account also claims that the staff of the Widgery Tribunal fabricated aspects of this soldier's statement in an apparent attempt to justify the killings. The Government was given a copy of this document which included, inter alia, the names of individual soldiers not revealed in the published version.

(v) The Government undertook an extensive search of its files relating to Bloody Sunday. Among those files were 101 statements by eyewitnesses which were collected by the Government in 1972. Many of those who gave statements to the Government also gave statements to the Northern Ireland Civil Rights Association (NICRA) and the National Council for Civil Liberties (NCCL) which subsequently formed the basis of Don Mullan's Eyewitness Bloody Sunday. Extracts from these unpublished eyewitness accounts have been used in this assessment.

2. In describing the material which has emerged as 'new' care must be exercised. Some of the material is genuinely new, such as the claims made on Channel Four that members of the security forces now verify that shots were fired from the vicinity of Derry Walls by the British Army. Some, such as the civilian eyewitness statements contained in Eyewitness Bloody Sunday, is not new in that it was available to the Tribunal at the time. However, the publication now of the civilian eyewitness accounts reveals afresh their compelling nature as a body of evidence dramatically at odds with the findings of the Widgery Report. Their restatement in conjunction with other material adds forcefully to the long-held doubts about the Report as an accurate and complete version of events. Some of the material, such as the statements made initially by the soldiers to the Military Police and subsequently to the Treasury Solicitors, was available to the official side of the Tribunal but would have been new to Counsel for the next of kin. It emerges now as new to the public. Indeed, this body of material derives its force from the very fact that it and the inconsistencies and alterations on the part of the implicated soldiers it reveals, were available to Counsel for the Tribunal but effectively concealed from Counsel for the next of kin despite their obvious relevance, particularly in the context of an adversarially based Inquiry. In other words, it is the fact of the material being "old" which gives it its devastating force as a critique of the Widgery Report.

3. New ballistics and medical evidence from independent expert sources has also emerged which supports Don Mullan's thesis that three of the victims of Bloody Sunday died as a result of British Army fire from the vicinity of Derry Walls.

4. In the course of this analysis, a number of comments and inferences are made solely on the basis of the content of the Widgery Report itself. They are based on the contradictions and failures in logic and purpose which are found throughout the Report. These are a legitimate source of criticism and so obvious that comment could not reasonably have been avoided. The Widgery Report has in the past been subject to detailed critiques, most notably those by Prof. Samuel Dash and Bryan McMahon, both of which have been used where appropriate in the course of this assessment.

## Introduction

5. Having considered the new material under three headings - Summary, New Material? and Significance - the assessment turns to the Widgery Report itself and subjects it to a detailed deconstruction in the light of the new material. The assessment closes with a conclusion based on this assessment and a recommendation on how the issue of Bloody Sunday should be taken forward.

## Summary and Significance of the New Material

### Eyewitness Statements

#### Summary

6. Over 500 witness statements were recorded by the Northern Ireland Civil Rights Association and the National Council for Civil Liberties shortly after Bloody Sunday and presented to the Widgery Tribunal in March 1972. Of these, 114 were selected for publication in Don Mullan's *Eyewitness Bloody Sunday, The Truth* which was published in January 1997. None of the statements were edited (save for minor spelling errors etc.). These statements portray a vivid picture of physical brutality and the deliberate use of lethal force without justification by the British Army. According to the statements, the British Army deployed in a very fast and aggressive manner into Rossville Street/Glenfada Park, took no obvious precautions against return IRA fire and shot unarmed civilians, often with lethal intent. Incidences of brutality are frequently recounted in these statements, often involving references to the abuse of those who attempted to render assistance - including uniformed members of the Order of Malta. They also contain claims that a number of the wounded were deliberately killed. Don Mullan proposes the thesis in his book, based on these eyewitness statements and other evidence (particularly ballistics and medical) that British Army snipers fired shots from the vicinity of Derry Walls which proved fatal in three instances.

#### New Material?

7. The eyewitness statements are not new and were in fact available to the Widgery Tribunal. According to Lord Widgery "the Northern Ireland Civil Rights Association collected a large number of statements from people in Londonderry said to be willing to give evidence. These statements reached me at an advanced stage in the Inquiry. In so far as they contained new material, not traversing ground already familiar from evidence given before me, I have made use of them."

8. It is also evident from a recently released memorandum written by the Tribunal's secretary on 10 March 1972 that the statements were considered in some manner by either the Treasury Solicitor's Office and/or Counsel for the Tribunal, Mr. Stocker. Mr. Stocker in fact selected 15 statements which he thought worthwhile bringing to Lord Widgery's attention. Mr. Hall of the Treasury Solicitor's Office believed there were four statements which, according to the memorandum, he would like to have seen given in evidence. The Tribunal's secretary, W.J. Smith, believed that evidence from some of these witnesses should have been taken "since it was clear that if this was not done there would subsequently be heavy criticism."

9. The memorandum records that Lord Widgery believed that the statements were submitted at a "late stage" to cause him "maximum embarrassment" and that there was little choice but to call either none or a substantial number which he was not prepared to do at that stage. He did not believe that the statements brought anything new to the proceedings. It is very difficult to see how Lord Widgery could have arrived at that judgement in an objective and balanced way if he had read a substantial portion of the statements. His negative response to them seems to indicate that he did indeed view them as coming from "the other side".

### **Summary and Significance of the New Material**

10. The eyewitness statements as published by Don Mullan are new to the public at large and in their consistency and clarity have provided a disturbingly vivid description of what happened on Bloody Sunday. This view of events is diametrically opposed to that offered in the official version of events by Lord Widgery and in that manner have resurrected the long held concerns that the Widgery Tribunal and its Report frustrated the objective for which it was established. Furthermore, the publication of the eyewitness accounts by Don Mullan has provided the foundation for the emergence of other information, including archival material and what are believed to be new eyewitnesses from the security forces.

### **Significance**

11. Lord Widgery's failure to use this evidence, to adequately consider the information contained in their statements which challenged assertions made by the military witnesses at the Tribunal in general as well as key instances, or to call a reasonable number of the civilian eyewitnesses was significant in the following terms:

- A major body of evidence which directly contradicted the evidence presented by the implicated soldiers (on which Lord Widgery based his findings) was effectively ignored.
- The bulk of the eyewitness evidence was not available therefore for use in cross examination of the testimony of the soldiers, testimony which was directly at odds with these statements; the proceedings were, by all accounts, intensely adversarial, thus enhancing the importance of the cross examination process and the significance of any and all failures to present relevant evidence.
- British Army assertions in the course of the Inquiry that some of the victims had been firing weapons or handling bombs were allowed credence by the absence of the bulk of eyewitness statements to the contrary.
- The possibility of criminal prosecutions against certain soldiers, which existed prima facie on the basis of several eyewitness statements, was ultimately denied since Lord Widgery felt free to conclude - on the basis of the restricted range of evidence that was considered - that the implicated soldiers were generally telling the truth.
- The possibility, suggested by a number of civilian eyewitnesses and supported by ballistics and medical evidence, that fire was directed into the Bogside from the vicinity of Derry Walls and that some of it hit and killed several victims was not given proper consideration and does not feature in the Widgery Report.
- A version of events was presented in the Widgery Report which was seen as so perversely at odds with that of the civilian eyewitnesses (including journalists) that any remaining public confidence in the Widgery Tribunal's methods, conclusions and ultimately motives was undermined.

### Summary and Significance of the New Material

12. Lord Widgery's dismissive approach to the statements, his failure to see them as a crucial repository of valuable - not to say indispensable - evidence and his belief that their arrival was intended to cause him embarrassment were at odds with his own emphasis on the importance of eyewitness accounts and seemed to run directly counter to the very remit of his Inquiry which was, if nothing else, to establish what happened.

13. According to the terms of the 1921 Act which governed the Widgery Tribunal, Lord Widgery in his role as chairman decided procedure, rules of evidence and what was and was not to be considered. The 1921 Act conferred on him the powers, rights and privileges of a High Court or a judge of the High Court in terms of compelling witnesses to attend (and to be cross examined) and the production of documents. However, such a role is predicated on the notion that the chair will use its powers to locate, consider and present all the relevant evidence which assists in uncovering the truth i.e. that the chairman is actually intent on discovering the truth. That a chairman would use his powers to suppress relevant evidence or to fail to consider evidence presented to him fairly is so patently at odds with the functions of a tribunal, indeed its *raison d'être*, that statutory safeguards do not exist to prevent this occurring.

14. The argument that full consideration of this evidence would have caused undue delay in producing the Report carries little weight in light of the seriousness of what the Inquiry was established to determine. Indeed, the very speed with which the Tribunal was concluded added profoundly to the widespread belief that it was not primarily concerned with establishing the full truth.

15. Without additional testimony by the eyewitnesses and the elucidation of their contribution to the Inquiry by cross examination, much vital information was not elicited such as the precise identity of the victims alluded to and the sequence of events. The true evidentiary value, therefore, of the eyewitness statements was never fully explored through cross examination and their contribution to the process of determining what happened and to whom was never properly or fully utilised. This will continue to remain the case until the true value of these eyewitness accounts is fully explored and corroborated by other forms of evidence in the appropriate forum. The full significance of these statements and their potential evidentiary value at the time emerges in the course of the deconstruction of the Widgery Report which follows.

## Summary and Significance of the New Material

### Statements Given to the Government

#### Summary

16. The Government collected 101 statements by eyewitnesses which it considered reflected the events on the ground from the civilian perspective. These confirm and in many instances add to the overall picture presented by eyewitness statements published by Don Mullan. They add further details, often significant, to the descriptions in Eyewitness Bloody Sunday of how many of the victims were killed or wounded. Several of these accounts attest to fire coming from the vicinity of Derry Walls. They also provide graphic accounts of the brutality inflicted on civilians by British soldiers, including accounts by members of the Order of Malta. Many of those who provided these accounts also gave statements to the NICRA/NCCL.

#### New Material?

17. Since Lord Widgery decided not to give any significant consideration to the civilian eyewitness accounts, whether the information contained in the statements given to the Government could be considered 'new' is rather moot. They would certainly be new to the public today in terms of the additional details and perspectives they offer from the civilian side.

#### Significance

18. Information provided in these statements does not in general terms alter the description of events offered in Eyewitness Bloody Sunday; they offer further corroboration about the eyewitness descriptions already published. In several instances, they augment these with significant additional detail about the deaths which occurred.

## Summary and Significance of the New Material

### Soldiers' Statements – Report by Prof. Walsh

#### Summary

19. Professor Dermot Walsh of the Law Department at the University of Limerick has studied a series of documents relating to the Tribunal and released by the Public Record Office in 1996. These have been published as The Bloody Sunday Tribunal of Inquiry, a resounding defeat for truth, justice and the rule of law which is a comprehensive critique of the Widgery Tribunal, its motives, methods and conclusions. Central to Prof. Walsh's analysis is his study of the recently released documents, in particular 28 statements made by soldiers to the Military Police on the night of 30/31 January and 13 supplementaries shortly thereafter (i.e. 41 statements in all; statements made by other soldiers and police personnel to the Military Police were not released.)

20. These statements contain, according to Prof. Walsh's study, "serious and relevant discrepancies" when compared with statements subsequently made to the Treasury Solicitors for the purpose of the Inquiry. This applies to almost every soldier who fired one or more shots. While available to the Counsel to the Tribunal and Counsel for the Army, the earlier statements were not available to Counsel for the next of kin. As Walsh states, "the reality is that the soldiers were never exposed to the sort of cross examination to which they would have been exposed had the contents of their earlier statements been disclosed to Counsel for the deceased."

21. Prof. Walsh notes that it is "hardly coincidence that in many instances the effect of the changes was to convert what had originally amounted to an unlawful or reckless shooting to a more justifiable one." He also points out that changes had the effect of reducing some of the conflicts in the versions presented by different soldiers.

22. Furthermore, and perhaps most damning of all to the credibility of the Tribunal, Prof. Walsh points out that "even when the solicitor for the Army asserted in his closing address that the evidence given by the soldiers to the Tribunal did not differ from their original statements, apart from one instance, Counsel for the Tribunal remained silent." Prof. Walsh concludes that not only did the Tribunal ignore evidence available to it which clearly damaged the reliability of statements made by the soldiers in the witness box but by remaining silent "actively concealed the existence of the evidence which renders the basis of its own findings unreliable."

#### New Material?

23. The initial statements made by the soldiers to the Military Police are not new since they were available to the Tribunal. However, their existence is new to the public now and would have been new to both the public at the time and, crucially, to Counsel for the next of kin. What is new about this material is the revelation that the Tribunal deliberately failed to reveal evidence available to it which undermined the reliability of statements made by the implicated soldiers in the witness box and which ultimately formed the basis for the Tribunal's report. In other words, it is from its very vintage that the material derives its power to invalidate the grounds on which the Widgery Report was based.

## Summary and Significance of the New Material

### Significance

24. In terms of the credibility of the Tribunal as impartial and the validity of the Report as a version of events, this material is highly significant and profoundly damaging;

- The statements of the soldiers made to the Military Police, so soon after the events, clearly constitute material evidence in and of themselves and as such ought to have been available to Counsel for the next of kin. Furthermore, the fact that they contain serious and relevant material discrepancies and differences as against subsequent written and oral statements made by these same soldiers to the Tribunal substantively altered and enhanced their value for the purposes of cross examination. That they were not made available to Counsel for the next of kin for this purpose rendered the process of cross examination fundamentally flawed.

- That the Tribunal chose not to disclose these statements at any time to Counsel for the next of kin raises serious questions about the impartiality of the proceedings of the Widgery Tribunal. That the Tribunal chose to accept the integrity of the soldiers' subsequent statements, despite its knowledge that earlier statements made by them were significantly altered, casts serious doubt about the commitment of the Tribunal and its staff to oversee a fair and impartial Inquiry.

- Lord Widgery wrote in his Report that he was impressed with the demeanour of the soldiers: they gave their evidence "with confidence and without hesitation or prevarication and withstood a rigorous cross-examination without contradicting themselves or each other". He accepted that with one or two exceptions they were telling the truth as they remembered it. If Lord Widgery was aware of the significance of the earlier statements by the soldiers, this judgement must be regarded as at best inherently unsound and at worst a wilful act of partiality and bias. On that basis, his judgement must be set aside. Equally, if he was unaware of the significance of the statements, then he simply was not in a position to make that judgment and it must accordingly be set aside.

- Since the reliability of the soldiers' statements in and of themselves (i.e. even without reference to the facts and evidence to the contrary) cannot be sustained, the Widgery Report must now be set aside as seriously flawed since it based its findings largely on the accounts provided by those soldiers and on a cross examination that was inherently seriously deficient in that it took place without knowledge, on the side of Counsel for the next of kin, of extremely relevant evidentiary material.

## Summary and Significance of the New Material

### Archival Material

#### Summary

25. Prof. Walsh's Report also analyses archival material released by the British Public Record Office in 1995 and 1996. He concludes that this provides "compelling and disturbing support" for the suspicion that the Tribunal was, as he puts it, "in favour of clearing the Army of any serious wrongdoing". There are two sources for this conclusion - a record of a meeting between the Prime Minister and Lord Chief Justice Widgery and a number of documents which reveal the important role played by the Secretary to the Tribunal.

26. The memorandum of the meeting between Prime Minister Heath, Lord Chancellor Hailsham and Lord Widgery, which occurred at 10 Downing Street on 31 January 1972, records that the Prime Minister advised that the Inquiry had no precedent as to its subject, "nor perhaps was it the sort of subject that those who designed the 1921 Act originally had in mind". He stated further that it followed that "the recommendations on procedure made by Lord Salmon might not necessarily be relevant in this case." The Prime Minister also advised Lord Widgery that "it had to be remembered that we are in Northern Ireland fighting not only a military war but a propaganda war". Finally, the Lord Chancellor suggested "that the Treasury Solicitor would need to brief Counsel for the army." As Walsh points out, "it would be difficult to imagine a more clear-cut conflict of interest than having a solicitor to an independent Tribunal briefing Counsel for the very party whose actions were supposed to be investigated by that Tribunal."

27. While it was to be expected that W.J. Smith as Secretary to the Tribunal would provide valuable assistance to Lord Widgery throughout the Tribunal, recently published material has provided evidence of the disproportionate and apparently prejudicial influence exerted by him. The material suggests that his influence was substantial, was taken on board by Lord Widgery and tended throughout to favour a version exonerating the Army:

- The Secretary identified discrepancies in the different statements given by Soldier F, which he stated Lord Widgery should "deal with". The Secretary noted that later Lord Widgery accepted this point.
- He added in comments favourable to the Army in the summing up by Counsel for the Tribunal and offered drafts to Lord Widgery, again favourable to the Army, with regard to the supposed weapons used by the protesters.
- He provided a draft to Lord Widgery of the final point of his conclusions to the effect that there was no general breakdown in discipline among the Army and further apportioning blame to those in Northern Ireland "who systematically employ violence to try to make their views prevail". He also made suggestions for strengthening the conclusions.

## Summary and Significance of the New Material

28. Prof. Walsh's concerns in this regard focus on two issues. Firstly, that this influence by the Secretary was not evident to those involved in the Tribunal (other than those working directly with Lord Widgery). Secondly, the obvious conclusion is that the Secretary would appear to be primarily motivated by a desire to present the Army's case in a more favourable light. On this basis, the Tribunal failed to deliver on its obligation to be totally impartial in ascertaining and presenting the full truth of what happened.

29. Prof. Walsh believes that the phrase 'LCJ will pile up the case against the deceased' "could be interpreted as evidence that the Lord Chief Justice himself was intent on presenting the case against the deceased in the strongest possible terms; i.e. that he was consciously biased in favour of the Army." At the least, Walsh writes, it "suggests that Lord Widgery innocently, and presumably under the influence of the Secretary's memo, adopted an unfair approach to the presentation of evidence upon which he based his conclusions." Prof. Walsh submits that "this appearance is sufficient in itself to impugn the credibility of the Tribunal's Report."

### **New Material?**

30. As it is based on archival documents, this is new material only in the sense that it is new to the public. However, it does shed new light on the establishment and operation of the Inquiry. In that it was private, available only to the Tribunal and not to Counsel for the next of kin, it could in that sense also be considered new. It cannot be ruled out that further archival material may emerge which would throw further light on the circumstances and conduct of the Tribunal and, indeed, on the events of Bloody Sunday itself.

### **Significance**

31. The archival material on the circumstances of the establishment of the Tribunal and its operation supports suggestions of a bias in favour of exonerating the Army. It reinforces the belief that the Tribunal accepted evidence supporting the Army's version of events while frustrating the presentation of other crucial evidence contradicting that version and supporting that offered by civilians. It would be reasonable to assume that the effort to "pile up the case against the deceased" is a sinister phrase indicative of a bias against them. This interpretation is clearly borne out by the Report itself as emerges later in this assessment.

## Summary and Significance of the New Material

### Transcript of Statements by Para AA

#### Summary

32. Portions of two transcripts of statements by Para AA (name supplied), purporting to be his account of service with the anti-tank platoon of 1st Battalion, Parachute Regiment in Northern Ireland in 1971-72 [and giving his service no. (supplied)] were forwarded by a journalist, Mr. Tom McGurk, to the Government on 26 February 1997. The contents of the transcripts are grim and, at points, grisly. They allege that members of Para AA's unit engaged in the robbery, beatings ("beastings"), torture, mutilation and murder of civilians in Northern Ireland. On Bloody Sunday, they allege that the anti-tank platoon of Support Company had, on the previous day, been encouraged by its Lieutenant to get some "kills", that they had their own supply of ammunition, that they used dum-dum bullets on the day, that Paras deliberately shot at unarmed civilians in Rossville Street, that named members of the anti-tank platoon entered Glenfada Park and that Para AA witnessed some of them unlawfully kill four demonstrably unarmed civilians there, including at least one who was already wounded, that soldiers lied to the Tribunal and that members of the Tribunal altered Para AA's statement so that it "bore no relation to fact and [I] was told with a smile that this is the statement I would use when going on the stand."

#### Publication

33. Portions of the material relating to Bloody Sunday were published on 16 March last by the Sunday Business Post. On Tuesday, 18 March, Channel Four News broadcast an interview with a paratrooper in which he said that "shameful and disgraceful acts" were committed, that there was no order to fire to his knowledge, and that the Widgery Tribunal staff tended to ignore what he said which was not in accord with the line they wished to take, took his statement away and returned with another version. In the course of the programme, a reporter outlined a sequence of events in Glenfada Park which bears similarities with the account given in the Para AA document. The similarities between the account given by Para AA and the albeit less explicit account by the paratrooper to Channel Four are striking. It is not unlikely that the author of the transcript and the paratrooper who appeared on the Channel Four programme are one and the same, though this has not yet been established.

#### Authenticity

34. If Para AA does come forward and claim authorship, then the authenticity of the document can be conclusively established. Additional information may come to light, such as to whom the interviews, accounts or transcripts were given (if anyone), who transcribed the document, who has been in possession of copies and who passed a copy to Mr. McGurk. Obviously that would not establish that the contents are factually accurate. However, given the volume of verifiable facts within the document, this question can presumably be answered at least in part through either research or official confirmation by the British authorities.

### Summary and Significance of the New Material

35. It should also be noted that incidents described in the Para AA document reflect the contents of the civilian eyewitness statements published by Don Mullan and those contained in Irish Government files. The account given by Para AA of what happened in Glenfada Park is eerily similar, albeit from the soldier's perspective, to that offered by the NICRA/NCCL eyewitness statements.

36. One claim in the document appears to have been verified: Para AA claimed in it that he was given the number 027 for the purpose of giving statements to the Widgery Tribunal. In the soldiers' statements made to the authorities and recently released by the British Public Record Office, there is in fact a statement by a soldier with the number 027. The account provided by 027 appears to correspond closely to that described in the Para AA document.

### Significance

37. If the transcript is authenticated, then it represents the most significant new evidence yet to come to light regarding the actions of soldiers on the ground during Bloody Sunday, particularly what happened in Glenfada Park, and the nature of the Widgery Tribunal. The allegation that Counsel for the Tribunal fabricated evidence, if verified, would represent a fatal blow to the Tribunal's credibility.

38. In the transcript, Para AA states that an original statement was torn up by the staff of the Tribunal and another statement taken. In the records released by the British Public Record Office and used as the basis for Professor Walsh's report, there is a statement by a soldier 027 which tallies with information given in the Para AA document. Significantly, the "approved" version by 027 contains the following alternative version of what happened in Glenfada Park:

"I was a short distance behind them [soldiers E, F, G, and H] and as they went out of my view round the corner I heard several SLR shots. I cannot say who fired and neither can I say what target they engaged. However, as I reached the corner of the building I saw a crowd of about 40 civilians at the far end of the park. They appeared to be leaving through an exit in the NW corner of the area. Then I saw a male civilian in his early twenties wearing blue clothing and with long hair lighting something in his hand. I then heard someone say drop it but I do not know who said that or whether it was directed at the youth holding the petrol bomb. As he attempted to throw the bomb 'E' knelt and fired at the youth at an estimated range of 20 metres. I saw the youth fall to the ground as the petrol bomb exploded near by."

39. This is in startling contrast to the version presented in the transcript. It removes Para AA/027 from view and introduces a threatening civilian, armed with a petrol bomb, to justify his killing. 027 was never called to give testimony by Lord Widgery who relied on the testimony of the four soldiers who actually fired i.e. the implicated soldiers.

40. If the Para AA document is authentic, then it appears that another British Army witness was available and potentially willing to state what he saw if encouraged to do so by the Widgery Tribunal rather than be presented with a fabricated exculpatory account as claimed in the Para AA document.

### Summary and Significance of the New Material

41. Para AA's claim that each soldier had a personal supply of bullets appears to accord with eyewitness statements on the volume of fire and, if verified, makes something of a mockery of Lord Widgery's apparent assiduousness in accounting for rounds expended. The use of dum-dum bullets was and is contrary to the Geneva Convention. The claim that dum-dums were fired appears to accord with the nature of the wound inflicted on at least one of the victims in Rossville Street, Bernard McGuigan.

42. There are other disturbing indications in the Para AA transcript which suggest that the level of excessive - not to say lethal - force was sanctioned by the British Army i.e. the briefing by the officer commanding the unit on the previous day seeking some "kills", the degree of aggression and expectation that the unit was about to engage the IRA and the presence on the ground of what appears to have been plain-clothes British operatives and a "P.R." man. It has long been suggested that the presence on the day in Derry of the officer commanding land forces in Northern Ireland, General Ford, indicated that the British Army had planned a more significant operation than mere containment and arrest. If true, the Para AA account would clearly suggest that elements of 1 Para were intent on more than arrest and containment.

## Summary and Significance of the New Material

### Medical Evidence

#### Summary

43. In his introduction to Eyewitness Bloody Sunday, Don Mullan draws particular attention to the trajectory of the wounds of three of the victims (William Nash, Michael McDaid and John Young), all killed at the Rossville Street barricade. He notes that Dr. John Press, who carried out all the post mortem examinations on 31 January, recorded that the trajectory of the wounds of all three victims were 45 degrees to the horizontal plane. Mullan says that as a lay person, it seemed "highly unlikely that a cluster of ten to twelve bullets, fired from any one of seven soldiers (as Lord Widgery would have us believe), all of varying heights in varying firing positions and all at ground level, could have produced such remarkably similar 45 degree downward trajectories."

44. Appendix 3 to the book contains a statement from Dr. Raymond McClean of 6 November 1996 which states that "the conclusion to be drawn from the forensic evidence, allied to the eyewitness account [i.e. that of Denis McLaughlin], suggests the likelihood that William Nash was killed by a bullet fired from the vicinity of the Derry Walls."

#### New Material?

45. The post mortem results are not new and were available to the Tribunal. However, McClean's statement of 6 November 1996 is new in that it combines the medical evidence with the eyewitness evidence that shots were fired from the Walls. It is the combination of eyewitness evidence, recent statements by witnesses believed to be soldiers and medical evidence such as that indicated by Dr. McClean, that opens again the question of who shot and killed a number of the victims and from where.

#### Significance

46. This material is significant in that it directly contradicts the findings of the Widgery Report relating to a number of deaths. It highlights the failure of the Tribunal to consider the medical evidence in and of itself. The Tribunal determined that all the Army shots were fired by the soldiers advancing up Rossville Street toward the barricade and at targets facing them rather than fleeing. Evidence which suggested that the shots were fired from any other direction was therefore discounted, irrespective of its merits. In that respect, Lord Widgery either disregarded or failed to explore fully the medical evidence given by Dr. John Press (Assistant State Pathologist) on the trajectory of the wounds of the three fatalities at the Rossville Street barricade. Furthermore, Lord Widgery failed to call Dr. McClean to testify despite the obvious and possibly critical contribution he could have made regarding the medical evidence. If shots were fired from the Walls, then the medical evidence from the bodies of Nash, McDaid and Young would appear to correlate with such shots. The Tribunal failed, therefore, to provide a full or credible account for the deaths of a number of the victims.

### Summary and Significance of the New Material

47. If the Mullan thesis is correct that shots were indeed fired from the Walls and hit and possibly killed a number of the victims of Bloody Sunday, then on this point alone the Widgery Report must be characterised as incomplete and inherently flawed. Furthermore, since it would conflict with the professed intention of the British Army to mount an arrest operation, firing from the Walls would profoundly alter perceptions about what happened on Bloody Sunday.

48. The full disclosure of all relevant medical records regarding the victims (dead and wounded) would undoubtedly help clarify many of the outstanding questions regarding the direction from which shots were fired.

## Summary and Significance of the New Material

### New Ballistics Information

#### Summary

49. In his introduction to Eyewitness, Bloody Sunday, Don Mullan records his discussion with Robert Breglio, an independent ballistics consultant who had spent twenty five years as a detective in the New York Police Department's ballistics squad. Having reviewed photographs, statements and inquest reports, Mr. Breglio stated that it was his opinion that "the angles of trajectory of bullet wounds of three deceased named: William Nash, John Young and Michael McDaid, originated from an area in the vicinity of Derry Walls and from a height that would inflict wounds of this angle trajectory (sic)."

50. Having undertaken further field research, Mr. Breglio published his conclusions in March 1997. He arrived at the following conclusion:

- (That impact marks on the gable at the entrance to Glenfada Park and Rossville Street) were made by being struck by high velocity projectiles that were fired from a high powered weapon. The trajectory of these projectiles is incoming from east to west and probably a north west direction. I will conclude that in my professional opinion these projectiles were fired from a position located up in the area of Derry Walls.

51. The Breglio Report also contains a medical report by Dr. Raymond McClean which states that:

- The conclusion to be drawn from the forensic evidence, allied to the eyewitness accounts, suggests the likelihood that William Nash was killed by a bullet fired from the vicinity of Derry Walls. There is also the possibility that Michael McDaid and John Young may have been shot from a similar firing position.
- The similarity of the trajectory lines through the three bodies would suggest that this was not haphazard shooting from different soldiers, at different angles, at ground level. The evidence as established would indicate that these men were shot from a location above them, and possibly by a marksman or marksmen, firing from the same position.

52. In a Channel Four News broadcast on 17 January 1997, Dr. Hugh Thomas, a consultant surgeon at Prince Charles Hospital (Merthyr Tydfil, Wales), stated the following:

53. • These shots could only have come from a higher level. It would be almost impossible for those three men in the few seconds available to them to bend to exactly the same angle and face exactly the same way and be shot in exactly the same fashion. It would be extraordinary and almost unheard of. So, I would say definitely not.

## Summary and Significance of the New Material

### New Material?

54. This clearly constitutes new evidence from three eminent and independent expert sources. It suggests that other relevant evidence exists within official British archives which could help resolve the questions raised about shooting from elevated positions.

### Significance

55. The significance of this material can be judged by the fact that new ballistics evidence would be regarded as sufficient to warrant an appeal in a criminal conviction.

56. In terms of the Widgery Report, it would mean that a significant portion of it would have to be dismissed (e.g. in terms of its accounts of the deaths of some of the victims and its version of events at the Rossville Street barricade) and, further, that an area of significant activity on the part of the British Army in the vicinity of the Walls was simply ignored in the official version of events.

57. In confirming the value and veracity of the civilian eyewitness accounts, this material reinforces the concerns regarding the balance of treatment afforded to eyewitnesses as between civilian and military. Had Lord Widgery been so minded, he could have explored the full potential of the ballistics, medical and forensic evidence to help him decide between the veracity of the various contending eyewitness accounts. That he failed to do so - even to the point of not calling medical expert witnesses, such as Dr. McClean, or of ignoring their testimony, such as Dr. Press, both of whom were present at the post mortem examinations - allowed him to avoid drawing what is now the obvious conclusion, that the ballistics, medical and forensic evidence corroborated the version of events presented by the civilian eyewitnesses rather than that offered by the implicated soldiers and other military witnesses.

## Summary and Significance of the New Material

### Radio Transcripts

#### Summary

58. James A.W. Porter recorded British Army and RUC radio messages on 30 January. Despite their obvious relevance, they were ruled inadmissible as evidence by Lord Widgery on the grounds that they had been obtained illicitly. Mr. Porter has made copies of these tapes and transcripts available to the Government. As Don Mullan points out, these messages indicate that the British Army was in fact firing from the Walls. He also points out that "nowhere in the transcripts is there any report of nail bomb or petrol bomb explosions."

#### New Material?

59. This is not new material in that its existence was known to the Tribunal.

#### Significance

60. The significance of these intercepts is problematic. On the one hand they recorded contemporaneous British Army and RUC messages which make clear that shots were fired from Derry Walls. In conjunction with other new material, it would appear to provide additional evidence not considered by Lord Widgery though clearly available to him at the time. Yet the messages were relayed openly and were known therefore to be liable to interception and recording. This raises the possibility that they may have been used to convey misinformation e.g. that shots were fired at the Walls, to which shots were returned. Furthermore, the messages in themselves do not reflect in a convincing or complete way the events as they unfolded. This is partially explained by the fact that operational messages had been switched to the secure link. It is the log of exchanges on the secure link which would provide a much clearer picture of the British Army's movements and actions on the ground. If the radio messages were used to convey misinformation on fire at the security forces, then it is difficult to invoke them as proof that fire was actually returned from the Army on the Walls. The significance of the radio intercepts may rest therefore in being an example of deliberate misinformation about coming under fire rather than in what they purport to relate about actual events.

61. Nonetheless, Lord Widgery's decision, on indeterminate legal grounds, that these intercepts were illicitly obtained seems perverse. They clearly had some relevance, for example in raising for further consideration the possibility of British Army fire from the vicinity of the Walls or in demonstrating the possible significance of other radio messages such as those on the secure link. The failure to consider the intercepts underlines the significance of the absence of any consideration by Lord Widgery of the actions and intent of British Army units on duty at and around the Walls and believed responsible for shots, some of which may have been fatal to a number of innocent civilians. They further underline his failure to convincingly account for the intentions and actions of British Army units not involved in the arrest operation but evidently involved in the events of Bloody Sunday.

## Summary and Significance of the New Material

### Channel Four News Reports

#### Summary

62. On 17 January 1997, Channel Four News broadcast a major investigative report, drawing on eyewitness statements, the Porter intercepts and the opinion of a medical expert, Dr. Thomas, in which it was asserted that the British Army fired from the Walls and from that position a marksman hit and killed Young, Nash and McDaid.

63. On 29 January 1997, Channel Four News reported that as a result of the broadcast of 17 January 1997, a former soldier with the Royal Anglian Regiment had come forward and, while he refused to be identified or filmed, confirmed that shots were fired from the vicinity of the Walls and that hits were claimed by at least one Army sniper in a derelict terrace adjacent to the Walls who, he said, shouted "He's got a gun....Bloody hell, I've got two with three shots." He also thought it possible that in the confusion the British Army sniper fired without being fired upon.

#### New Material?

64. This is clearly new material. Whether it will constitute new evidence will turn on whether those making the statements to Channel Four are prepared to come forward.

#### Significance

65. This material, if and when its source were to come forward and confirm this account, would be highly significant evidence that British Army snipers fired from around the Walls and claimed hits. It would considerably boost the argument that the Widgery Report failed to account for a significant aspect of the killings and the possibility that some deaths were as a result of fire from soldiers other than the paratroopers.

## Summary and Significance of the New Material

### Testimony of Soldiers on Derry Walls

#### Summary

66. Don Mullan has examined statements recently released by the British Public Record Office made by four soldiers who were stationed on Derry's Walls which appear to confirm that snipers were positioned on or near the Walls overlooking the Bogside. He examines claims in these statements that shots were fired at the Walls and concludes that these are not credible. For example, in three of the soldiers' testimonies there is no mention of coming under civilian fire. Soldier 156 claimed that two bullets struck the Walls at 4.15 pm which he presumed to have come from St. Columb's Wells. Mullan dismisses this as "fantasy" since the crowd assembling at this time in the area of the supposed gunmen remained relaxed. Had a gunman, he argues, been operating, the mood would have been very different. Mullan asks whether the three sniper shots fired from the derelict houses near the Walls, as related by soldier 156, might have hit Young, Nash and McDaid.

#### New Material?

67. While this material was available to the Tribunal, it was not available to the Counsel for the next of kin or to the public.

#### Significance

68. Its significance lies in the fact that it may help to confirm from British Army sources that shots were in fact fired from the vicinity of the Walls. However, the testimonies of the soldiers were completely unreliable in numerous instances and any faith in them as accurate source material is highly suspect. Given their unreliability, clear corroboration is required. At least in terms of these testimonies and what they say of fire returned from the vicinity of the Walls by the British Army, there now exists corroboration from other sources of evidence as already described here.

## The Widgery Report and the ‘New’ Material

69. The following is a deconstruction of the Widgery Report, drawing on the different sources of new material already outlined. Its purpose is to assess, on the basis of a prima facie examination, the significance of the new material for the credibility of the Widgery Report (extracts of which are reproduced in italics).

### Terms of Reference

Para 2. The terms of reference of the Inquiry were as stated in the Parliamentary Resolutions and the Warrants of Appointment. At a preliminary hearing on 14 February I explained that my interpretation of those terms of reference was that the Inquiry was essentially a fact finding exercise, by which I meant that its purpose was to reconstruct, with as much detail as was necessary, the events which led to the shooting of a number of people in the streets of Londonderry on the afternoon of Sunday 30 January. The Tribunal was not concerned with making moral judgements; its task was to try to form an objective view of the events and the sequence in which they occurred. The Tribunal would therefore listen to witnesses who were present on the occasion and who could assist in reconstructing the events from the evidence of what they saw with their own eyes or heard with their own ears. I wished to hear evidence from people who supported each of the versions of the events of 30 January which had been given currency.

70. In light of the new material, virtually all of the main points of this paragraph are open to contradiction. Not all of the relevant facts available to the Tribunal were taken into account. Nor were the facts which were dealt with by the Tribunal considered adequately or in a balanced way. The determination of what was and was not a fact was highly questionable. A precise reconstruction with necessary and germane detail was not attempted and in the case of Glenfada Park avoided. The Tribunal did not visit the scene of any of the shootings.

71. Lord Widgery failed to adhere to his stricture not to make moral judgements. Time and again throughout the Report, he pronounced at length on the nefarious motives of elements within the civil rights march ("hooligans" aiding and abetting the IRA) and the honourable motives of the soldiers ("the intention of the senior Army officers to use 1 Para as an arrest force and not for offensive purposes was sincere" and "there is no reason to suppose that the soldiers would have opened fire if they had not been fired upon first."). Lord Widgery did, then, make "moral" judgements, most significantly in his first conclusion that no deaths would have occurred "if those who organised the illegal march had not thereby created a highly dangerous situation in which a clash between demonstrators and the security forces was almost inevitable."

72. Where there were conflicts in the evidence, the Report persistently supported the version offered by the soldiers involved in firing and whose interests in concealment were obvious rather than those with greater claims to objectivity (e.g. civilian eyewitnesses, journalists, ex-service men, soldiers and officers who were not implicated). In failing to reveal the inconsistencies and alterations in the earlier statements of the soldiers, the Tribunal prejudicially sustained the credibility of the testimony offered by the soldiers at the Inquiry and thereby actively aided the presentation of a misleading version of events.

### The Widgery Report and the 'New' Material

73. Despite Lord Widgery's emphasis on the importance of eyewitnesses, the Tribunal failed to give substantive consideration to the eyewitness statements taken and submitted by the NICRA/NCCL. Lord Widgery did not call even a significant minority of the hundreds of civilian eyewitnesses who made known through their NICRA/NCCL statements the relevance of what they had witnessed and the fact that they were prepared to testify (or even those few witnesses deemed by his staff worthy of giving testimony). Nor did he call many witnesses who were demonstrably relevant to his Inquiry and who could have assisted in a reconstruction of what happened, most notably six of those wounded and prepared to testify.

Para 3. I emphasised the narrowness of the confines of the Inquiry, the value of which would largely depend on its being conducted and concluded expeditiously. If considerations not directly relevant to the matters under review were allowed to take up time, the production of the Tribunal's Report would be delayed. The limits of the Inquiry in space were the streets of Londonderry in which the disturbances and the shooting took place; in time the period beginning with the moment when the march first became involved in violence and ending with the deaths of the deceased and the conclusion of the affair.

Para 4. At the first substantive hearing I explained that the emphasis on the importance of eye witnesses did not exclude evidence such as that of pathologists. Nor did it exclude consideration of the orders given to the Army before the march. The officers who conceived the orders and made the plans, including those for the employment of the 1st Battalion of the Parachute Regiment, would appear before me.

74. The salient points of these paragraphs are all open to question. The value placed by Lord Widgery on an expeditious Inquiry is simply not explained. If it was a genuine consideration and if it was the genuine reason for the short-cuts taken by Lord Widgery (such as the failure to consider the NICRA/NCCL statements), it was a profound error of judgement since it resulted in frustrating the primary purpose of the Inquiry as defined by Lord Widgery himself. It is impossible to accept any argument that eyewitness statements, including by those wounded, were not directly and indeed crucially relevant to the matters under review. As Prof. Walsh points out, the Scarman Tribunal of Inquiry took ten times longer than the Widgery Inquiry, despite the fact that Lord Widgery was investigating far more serious incidents.

75. In light of the new material, setting the limits in space as those streets in which the disturbances and the shooting took place, now emerges as a fundamental error. The new material strongly suggests that shots were fired from the vicinity of Derry Walls which possibly resulted in deaths and/or injuries in the area of the Rossville Street barricade. The Report, by its own unduly restricted interpretation of the terms of reference of the Inquiry, failed to account for a major and directly relevant aspect of the events of that day. It should also be noted that many of the eyewitness statements at the time attested to shots having been fired from the vicinity of Derry Walls.

## The Widgery Report and the 'New' Material

76. Lord Widgery's limit in time is extraordinary, not least in that it was not adhered to in the Report itself. It was breached when Lord Widgery set an extensive and partisan context to the situation in which the march occurred but which failed to mention internment, the very reason for the march and a major factor which had contributed to the deterioration in relations between the nationalist community and the security forces. Yet Lord Widgery observed the limit when he failed to thoroughly examine the role the civil and military authorities played in planning and organising the response of the security forces to the march. He abstained from tracing the origins of the Operation Order which purported to define the British Army's plan for its activities that day (including the provision for an arrest operation by 1 Para) despite his own acknowledgement that the final decision on it was taken by a higher authority than General Ford and the Chief Constable. This failure is all the more remarkable when one considers that the Report concludes that had the arrest operation not been launched, "the day might have passed without serious incident".

77. The limitation in time has now been further called into question by the Para AA document which alleges that 1 Para were given a briefing by a Para Lieutenant on the day before the march which encouraged the soldiers to "get some kills". The nature of this alleged briefing and whether, for example, it formed part of a military operation to flush out and destroy members of the IRA, goes to the heart of the British Army's role in the events of Bloody Sunday. The allegation, the source from which it comes, the context in which the Operation Order and the inclusion of 1 Para arose, and the failure of 1 Para to adhere to its role and area of activity as defined by that Order, are matters which fundamentally undermine the efficacy of Lord Widgery's approach in his Report.

### Choice of Location

Para 5. My original intention was to hold the Inquiry in Londonderry.....For reasons of security and convenience I reluctantly concluded that other possibilities would have to be considered.....I decided on Coleraine.

78. The emergence of archival material relating to the establishment of the Widgery Inquiry has now given rise to important questions regarding the political influence which may have been brought to bear on the nature of the Inquiry itself and thus by implication on the Report. The release from archival sources of a record of the meeting between Prime Minister Heath, Lord Hailsham and Lord Widgery raises important questions about the degree of political direction of the Inquiry from its outset.

### The Widgery Report and the 'New' Material

79. According to the report of the meeting, the Prime Minister suggested that the subject matter of the Inquiry was unprecedented and that therefore it might not be "the sort of subject that those who had designed the 1921 Act originally had in mind. It followed that the recommendations on procedure made by Lord Salmon might not necessarily be relevant in this case." Since any matter requiring a Tribunal of Inquiry is almost by definition unprecedented, it is unclear why the Prime Minister should stress the uniqueness of Lord Widgery's task. However, the Prime Minister's suggestion that consequently the recommendations of Lord Salmon "might not necessarily be relevant in this case" is disturbing since the Salmon recommendations contained in the 1966 Report of the Royal Commission on Tribunals of Inquiry, as Prof. Walsh points out, specifically addressed the problem that an Inquiry's "inquisitorial approach will result in serious allegations being made against an identifiable individual during the proceedings, without that individual being afforded a realistic opportunity to answer those allegations and generally defend his reputation." The failure to comply with the Salmon recommendations and protect the reputations and character of the victims, through adequate and fair legal representation, remains one of the enduring sources of grief and pain to the relatives as well as being inherently unfair. This failure appears to have originated, at least to some extent, from a suggestion by the Prime Minister. As such, it suggests that a central feature of the Inquiry arose in a political rather than legal context; and that the independence of the Inquiry was compromised by political considerations from its outset.

80. The Prime Minister placed heavy and repeated emphasis on a speedy outcome. Lord Widgery by his own account similarly emphasised the need for expedition. Thus the speed with which the Inquiry was concluded, ultimately so corrosive to a proper examination of all relevant evidence, again appears to have arisen from political considerations offered at the highest levels.

81. The Prime Minister notes that "it had to be remembered that we were in Northern Ireland fighting not only a military war but a propaganda war." The possible implications of this reference can hardly be benign vis a vis the objective task of a Tribunal of Inquiry. The sentiment appears to suggest that the possible outcome of the Inquiry, whatever it might be, had to be viewed in the context of a propaganda war and the public debate which that entailed. It suggests that the Inquiry's outcome was conceived as a potential tool for either side in that war. If one was fighting a propaganda war, as suggested by the Prime Minister, a finding that the British Army was culpable for the deaths of innocent civilians would clearly be unhelpful. Thus just as Lord Widgery accepted the task allotted to him, he appears to have been explicitly warned about the implications of a finding against the British Army. Coming from the Prime Minister, the significance and influence of this advice on Lord Widgery's approach, and the officials assigned to the Inquiry, cannot be lightly dismissed.

### The Widgery Report and the 'New' Material

82. Lord Widgery himself says that "the Tribunal would be asked to inquire into what happened, not into motives." This seems extraordinarily pre-emptory; by any standard of legal inquiry, motives would be considered relevant. In fact, Widgery referred repeatedly to motives throughout his Report, though without seeking to establish a rational basis for his views. His judgements on motives invariably reflected well on the intentions of the soldiers despite the evidence against them. He referred, for example, to the sincerity of the motives behind using 1 Para as an arrest force. He not only accepted the good intentions of the soldiers in opening fire but used that assumption as a rationale to discount independent evidence to the contrary. On the other hand, Lord Widgery assumed the most nefarious of motives on the part of the civilians involved without establishing any basis for such assumptions. Had Lord Widgery made an investigation of motives a clear objective as it properly was and not taken such a pre-emptory stand, he might have approached the Inquiry with greater consistency and balance on this critical point.

83. Lord Widgery also says that "it would help if the Inquiry could be restricted to what actually happened in those minutes when men were shot and killed; this would enable the Tribunal to confine evidence to eyewitnesses." With these words, Lord Widgery appeared to have decided from the outset to limit the scope of the Inquiry to the events themselves, not to investigate in any meaningful way how those events came about and not to determine who might or might not have been responsible for decisions which contributed to the killings other than those on the ground at the time of the shootings. Furthermore, Lord Widgery appeared to have decided that eyewitnesses - civilian versus military - would set the confines for the Inquiry's deliberations. That enabled him later to more readily dismiss crucial corroborative evidence of a technical kind, most notably ballistics and medical evidence. These were extraordinarily pre-emptory decisions.

84. Lord Chancellor Hailsham suggests a purpose for the Inquiry which appears to be pre-emptive: "whether the Troops shot indiscriminately into a crowd or deliberately at particular targets in self-defence." Posing the purpose of the Inquiry, which had yet to be established, in such stark and restrictive terms clearly ruled out other possibilities, such as deliberately shooting at targets but not in self-defence as appeared to many to have occurred or shooting as part of a "flush out and destroy" operation referred to by Lord Widgery himself in his Report. Since it is evident from the Report that the Lord Chancellor's view becomes the central and essential purpose of the Inquiry, one can reasonably suggest that it was, self-evidently, an influential one.

85. The Prime Minister said that "it would have to be decided where the Tribunal should sit. It probably ought to be somewhere near Londonderry; but the Guildhall, which was the obvious place, might be thought to be on the wrong side of the River Foyle. One possibility would be to fix a suitable meeting place a little distance away from Londonderry." Why there might be a "wrong side" is not explained. However, it is clear that the Prime Minister successfully steered Lord Widgery from siting the Tribunal in Derry itself, despite Lord Widgery's own comment to him that he thought it should be held there "so that people were not inhibited from giving evidence". In other words, a very proper consideration by Lord Widgery was reversed and the Tribunal's location coincided with the views expressed from the outset by the Prime Minister. It is now clear that Lord Widgery's comment in his Report that his reasons for not siting the Inquiry in Derry were "for reasons of security and convenience" was a less than full and convincing explanation.

### The Widgery Report and the 'New' Material

86. The Prime Minister suggested a departure from the previous practice in which the Treasury Solicitors had gathered depositions and other evidence in advance on the grounds that this made for "a long and cumbersome procedure" and because "it was not clear whether some of the witnesses who might otherwise give evidence would be prepared to comply with such a procedure". This rationale was hardly appropriate or convincing on either count. That it might prove "long and cumbersome" was hardly a consideration equivalent to the overriding need to establish how thirteen civilians had met their deaths at the hands of the British Army. If there were doubts about the degree to which relevant eyewitnesses would cooperate, it would seem more appropriate to attempt to allay those concerns and ensure that the Tribunal was supplied with all the relevant evidence to properly carry out its remit. The result of setting aside the previous practice of collating evidence in advance was that a whole field of information was ignored - information that would eventually challenge the statements put forward by the implicated members of the British Army.

87. Despite the serious implications of this decision, the basis for the Prime Minister's views were not established or clarified in the record of the meeting. While the record shows that the Prime Minister noted that it was a decision for Lord Widgery, the latter replies that "it did not seem to him to be the sort of Inquiry in which preliminary statements and depositions would be called for." The grounds on which Lord Widgery took such a profoundly important view on the procedure to be followed - with such speed and in compliance with the Prime Minister - are neither stated nor clear. One is simply left with the fact that without recorded reasons, Lord Widgery complied with the view of the Prime Minister on this critical point virtually immediately. It is clearly open to the interpretation that it arose directly from the Prime Minister's suggestion and as such constituted political influence on a crucial aspect of the Inquiry's subsequent activities.

88. It is reasonable to assume that other material exists within the British Government's archives which would illustrate further the political context in which the Widgery Inquiry was convened and operated. Until those archives are released, that context can only be guessed at. However, the record of this meeting and its self-evident influence on the nature and operation of the Widgery Inquiry raises important and disturbing questions about untoward political influence and the ostensible independence of that Inquiry in terms of its remit, purpose, procedure and location.

#### Sessions of the Tribunal

Para 6. The witnesses...fell into six main groups: priests; other people from Londonderry; press and television reporters, photographers, cameramen and sound recordists; soldiers, including relevant officers; police officers; doctors, forensic experts and pathologists.

## The Widgery Report and the 'New' Material

89. Lord Widgery's reference to "other people from Londonderry" was a convenient rubric in that he did not claim civilian eyewitnesses, the value of which he had emphasised at the outset of his report, as a distinct category. Nor does he clarify that only soldiers - as opposed to NCO's and officers - who fired their weapons were called. The new material which has emerged clearly demonstrates that the sessions of the Tribunal would have been immeasurably enhanced had the list of witnesses called been as comprehensive as paragraph 6 sought to suggest.

### Representation of Relatives' Interests

Para 7. it was highly desirable that other interests should be represented at the same level so that cross examination of the Army witnesses should not devolve on the Counsel for the Tribunal. In the event, this need was met by my granting legal representation to the relatives of the deceased and to those injured in the shooting....

90. While Lord Widgery granted legal representation "at the same level" - though not in accordance with the Salmon recommendations - he did not accord that representation equal access to all relevant statements and evidence. The significance of this failure is set out in Prof. Walsh's study and detailed throughout this Assessment.

### Sources of Evidence

Para 8. The Northern Ireland Civil Rights Association collected a large number of statements from people in Londonderry said to be willing to give evidence. These statements reached me at an advanced stage in the Inquiry. In so far as they contained new material, not traversing ground already familiar from evidence given before me, I have made use of them.

91. The publication of the eyewitness statements in Eyewitness Bloody Sunday and the report by Prof. Walsh bear directly on this claim and, together, completely undermine it as both spurious and misleading. In the course of the Report, Lord Widgery made general references to accusations about the actions of soldiers and cited six civilian sources on who fired first in the Rossville Street courtyard. But even here, he did not subject them to any examination or detailed comparison with the statements which ultimately he chose to accept (i.e. by the soldiers who fired). Nor did he make that choice on any firm basis but on a conclusion "gradually built up over the many days of listening to evidence and watching the demeanour of witnesses under cross-examination." Apart from this instance, Lord Widgery did not clarify that the statements were from civilian eyewitnesses and not as he vaguely termed them "people in Londonderry". These are merely "said to be willing to give evidence" as if there remained any doubt about either the willingness of civilian eyewitnesses to do so or about the status of the statements as evidence in and of themselves. Lord Widgery made no reference to the fact that hundreds of civilian eyewitnesses, in forwarding their statements to the Tribunal, overcame their considerable reservations, not to say profound scepticism, about the Inquiry as a proper and fair investigation into Bloody Sunday.

### The Widgery Report and the 'New' Material

92. Lord Widgery's statement that the Inquiry was at "an advanced stage" when the statements were submitted can, on the face of it, be questioned as more properly a secondary consideration to the actual import of the statements. However, recently released archival material, published and treated by both Mullan and Walsh, reveal more disturbing questions. To take one example, the following points can be made based on an examination of a memorandum by the Secretary to the Tribunal, W. J. Smith, dated 10 March on the eyewitness statements:

- The statements were received on 3-4 March and Lord Widgery saw some of the statements on 9 March: 15 had been brought to his attention. Since the first hearing was convened on 21 February, there was hardly a sufficient time lapse to justify Lord Widgery's claim that the statements reached him at an advanced stage. Furthermore, sessions of the Inquiry continued in Coleraine until 14 March and further sessions were held in London up to and including 20 March. In other words, the Inquiry was actively involved in public hearings during and well after the statements had been received. Moreover, by 9 March, the statements had been sifted and 15 deemed worthy for consideration by Lord Widgery.

- Lord Widgery was strongly advised by his own staff to take evidence from some of these potential witnesses. Lord Widgery comments that he had no choice but to take evidence from all or none. No reasons were recorded for this view, nor for his judgement as recorded by the memorandum that "he did not think that the people who wrote them could bring any new element to the proceedings of the Tribunal" - a view diametrically at odds with his emphasis in the Report on the value of eyewitnesses and with the fact that the civilian eyewitnesses directly challenged the versions offered by the implicated soldiers.

- Smith notes that two of the statements are in conflict with a witness, Ms Richmond, but are in agreement with the forensic evidence and are deemed by him "as probably much more reliable". He comments that it is important the report "should not include references to the deaths of these four men [sic: he mentions only three, Gilmore, Doherty and McKinney (G) but presumably is referring in addition to William McKinney] which could be criticised as being contradicted by evidence which was available to the Tribunal but not considered by it." It is clear here that Smith was less concerned with taking into account what he deemed more reliable statements and more concerned with ensuring that the presentation of the case in the Report be protected from criticism - criticism which by Smith's own account could be regarded as valid.

### The Widgery Report and the 'New' Material

93. The memorandum suggests that the Secretary of the Tribunal appeared more concerned with how to deal with the problematic existence of the NICRA/NCCL statements in the Report, and consequently on advising Lord Widgery on how best to do so, than with their intrinsic merit, implications or possible contribution to the search for the truth. As Jane Winter of British Irish Rights Watch comments in her foreword to Eyewitness Bloody Sunday, "the eyewitness statements, collected with such care and recounted with such pain and terror, were never given their due or proper consideration by the man bearing the highest judicial office in the land, who clearly regarded their perusal as of no great import and a task to be undertaken in the last resort".

94. In and of itself, the failure to give substantive consideration to these statements and the failure to call a reasonable number of witnesses from those who made them to give evidence and thus make their own critical contribution (by any measure essential but particularly so given the clear conflict of evidence before the Inquiry) to establishing the facts and reconstructing what happened constitutes a sufficient basis on which to discount the Widgery Report as incomplete and unbalanced.

95. Prof. Walsh analyses in detail the significance of this and other memoranda released by the British Public Record Office which illustrate the substantive and guiding role of the Secretary to the Tribunal in the drafting and direction of the Widgery Report. In Prof. Walsh's assessment, Lord Widgery accepted and acted upon the Secretary's suggestions with the implication that "the Tribunal's findings have been influenced by arguments that were not made in the course of its public hearings and tested in cross examination by the parties affected". Even more disturbing, Prof. Walsh writes, the impact of the Secretary's role was such as to present the British Army's case "in a more favourable light than might otherwise have been the case in Lord Widgery's drafts."

96. Both Mullan and Walsh refer to the hand written statement by the Secretary on one of these memoranda that the Lord Chief Justice "will pile up the case against the deceased, including the forensic evidence and the willingness of local people to remove guns, but will conclude that he cannot find with certainty that anyone of 13 was a gunman". There is by any measure a sinister overtone to the notion of piling up the case against the deceased with the express intention of imputing guilt but avoiding the direct accusation. It strongly suggests that the Tribunal was motivated by objectives other than an impartial search for the truth and that a core motive was to sully the reputation of the victims in defence of the British Army's actions. It is difficult to arrive at any other reasonable interpretation of these remarks.

97. Given the ostensible and essential public function of an Inquiry, Prof. Walsh comments that "there should be no role for the Secretary of the Tribunal to work behind the scenes, hidden from public view and from Counsel for the parties and the Tribunal itself, to seek to influence the Tribunal's interpretation of the evidence, the substance and presentation of the Report and the Report's conclusions. Such actions are hardly compatible with the obligations placed on the Tribunal and the manner in which they are expected to be discharged". He concludes that "by accepting and acting upon the Secretary's recommendations, the Tribunal failed to deliver fully on its obligations to be totally impartial in ascertaining and presenting the full truth of what happened". This is not to contest the legitimate role of officials to advise and assist. However, the weight of the archival material released thus far strongly suggests that the role assumed by the Secretary was, on the face of it, prejudicial to a fair and objective outcome.

## The Widgery Report and the 'New' Material

98. The failure to give substantive consideration to the eyewitness statements rendered the Widgery Report incomplete and unbalanced. The manner in which they were approached and the role played by the Secretary to the Tribunal as detailed by Prof. Walsh support the allegation that the Report lacked impartiality and transparency. That was widely suspected at the time. The emergence of this new material now effectively confirms that suspicion.

### Sources of Evidence

Para 8. I did not think it necessary to take evidence from those of the wounded who were still in hospital.....

99. Even on a prima facie basis, there can be little confidence in this audacious judgement. In light of the publication of the eyewitness statements which clearly contradict statements by the soldiers, given Lord Widgery's own professed confusion about the four deaths in Glenfada Park, and since at the time it was evident that those wounded could provide invaluable testimony, this judgement has to be seriously open to the charge that it was self-serving rather than objective. Lord Widgery's decision in this regard amounted, frankly, to an astonishing disregard for what contribution these crucial and indisputably relevant eyewitnesses might have made to the Inquiry's knowledge of the events and actions as they unfolded. It is difficult to avoid the conclusion that he simply did not want to know what they witnessed.

### Londonderry: The Physical Background

Para 9. The events with which the Tribunal was primarily concerned took place on the west bank, and indeed wholly within an area about a quarter of a mile square, bounded on the north by Great James Street, on the east by Strand Road, Waterloo Place and the City Wall, on the south by Free Derry Corner and Westland Street and on the west by Fahan Street West and the Little Diamond. (Free Derry Corner is the name popularly given to the junction of Lecky Road, Rossville Street and Fahan Street.) This area....in the north-east corner of the Bogside district, is overlooked from the south-east side by the western section of the City's ancient Walls...

100. The area thus defined by Lord Widgery is now revealed as inadequate by the emerging evidence that the British Army hit and killed a number of civilians with shots fired from the vicinity of the Walls. The actions by the British Army in the vicinity of Derry Walls are simply not dealt with by Lord Widgery despite evidence from a number of different sources, as detailed by Mullan, available at the time that firing by the British Army from the vicinity of the Walls into the Bogside had in fact occurred. Furthermore, in setting such a tight geographical constraint, Lord Widgery effectively ruled out a search for decisions and actions on the part of the authorities which materially contributed to Bloody Sunday, either directly or indirectly, but which were beyond his self-imposed and restrictive horizons.

### The Widgery Report and the 'New' Material

Security Background: Events in Londonderry during the previous six months

Paras 10, 11,12. At the beginning of July, however, gunmen appeared and the IRA campaign began. Widespread violence ensued with the inevitable military counter-action...the IRA tightened its grip on the district...So the law was not effectively enforced in the area....At the end of October, 8 Infantry Brigade...was given instructions progressively to regain the initiative from the terrorists and reimpose the rule of law.....These operations hardened the attitude of the community.....so that troops were operating in an entirely hostile environment.....Many nail and petrol bombs were thrown during these attacks. Gunmen made full use of the cover offered to them by the gangs of youths, which made it more and more difficult to engage the youths at close quarters and make arrests. The Creggan became almost a fortress....The terrorists were still firmly in control.

101. These paragraphs contain Lord Widgery's general account of the circumstances prevailing in Creggan and the Bogside which he characterised as one in which the IRA remained in control and acted in concert with "hooligan gangs" to mount attacks on the security forces and were threatening to expand their control beyond lines established by the security forces. Army incursions, according to Lord Widgery, were likely to be met with rioting hooligans giving cover for IRA attacks. As such, the context offered by him was essentially that promoted by the British Army at the time. It was, therefore, the view of only one side, that of the British Army, whose actions the Inquiry had been established to investigate. As a description, it did not seek to portray the situation as it was seen from the nationalist side, i.e. the side from which all the victims came.

102. Astonishingly, as one legal commentator has pointed out, there is not a single mention of internment, (nor for that matter of any political dimension to the disturbances). Yet it was the imposition of internment on 9 August 1971 which precipitated the escalation of tension, which was a direct cause of the serious deterioration in relations with the security forces and which was the reason why there was a march on 30 January. As Prof. Dash pointed out, "allegations against the military in Northern Ireland of physical brutality in the treatment of internees were the subject of a highly publicised official Home Office inquiry under the chairmanship of Sir Edmond Compton."

103. Lord Widgery, in casting a moral judgement on the organisers of the march by claiming that they were directly culpable for the deaths, made a consideration of their motives and intentions a relevant one. Yet that consideration was patently absent and as such was indicative of the partiality of the context offered by Lord Widgery. The context offered by Lord Widgery, rather than being studiously neutral or balanced, becomes in effect an apologia for the decisions and actions of the authorities in dealing with the march with such fatal consequences.

104. Lord Widgery did not seek to establish the intentions of the march organisers and whether they had made bona fide efforts to ensure that there would be no serious (i.e. IRA) violence accompanying it. He did not investigate whether their approach had been tempered by the actions of members of the Parachute Regiment in the violent clashes on Magilligan beach the previous week, nor whether their anticipation that the Parachute Regiment would be on duty at the internment march had encouraged them to ensure that the march pass off peacefully.

### The Widgery Report and the 'New' Material

105. On the other hand, neither did Lord Widgery seek to establish whether the British Army's claim that the IRA would be present was reasonable on the day in question. He did not seek to establish whether Provisional IRA members and most Official IRA units were out of the Bogside on Bloody Sunday (as was believed widely at the time) and whether the British Army might have been aware of this. Yet these considerations were all germane factors in any assessment of what actions by the British Army could have been deemed to have been objectively reasonable. And they were germane by Lord Widgery's own terms e.g. the emphasis on who fired first, the degree of danger anticipated by the soldiers and whether they were justified in firing.

106. As is again made now clear by Don Mullan, the march was organised and stewarded as a peaceful event and steps had been made to ensure that paramilitary violence would not precipitate military action and endanger civilians. This interpretation, known at the time, has never been challenged. Indeed the very absence of any gunmen among the casualties or those arrested was in itself a testament to the success of the march organisers in removing the threat posed by the IRA to the security forces. Herein may lie the tragic folly of the British Army's actions and the most problematic issue for it once lethal force was used against the civilians. Without IRA gunmen posing a significant and active threat, the actions of the British Army became subsequently difficult to explain, much less excuse.

Para 13. Early in 1972 the security authorities were concerned that the violence was now spreading northwards from William Street, which was the line on the northern fringe of the Bogside on which the troops had for some considerable time taken their stand.....The local traders feared that the whole of this shopping area would be extinguished within the next few months.....In the last two weeks of January the IRA was particularly active. In 80 separate incidents in Londonderry 319 shots were fired at the security forces and 84 nail bombs were thrown at them; two men of the security forces were killed and two wounded.

107. This paragraph is inherently partisan in that it again omits any reference to the march in question and whether it was or was not the intention of the marchers to attempt to breach the line established by the security forces at William Street but it implies that that was in fact the case. And it suggests implicitly that the march was not concerned with demonstration as a political act but was instead an event staged to precipitate disorder and destruction. The partiality of this paragraph is further highlighted by the publication of the eyewitness accounts and the failure of any evidence to emerge over time validating Lord Widgery's assessment of the degree of threat represented by the march.

Para 14. At the beginning of 1972 Army foot patrols were not able to operate south of William Street by day because of sniper fire.....The hooligan gangs in Londonderry constituted a special threat to security. Their tactics were to engineer daily breaches of law and order in the face of the security forces, particularly in the William Street area, during which the lives of the soldiers were at risk from attendant snipers and nail bombers. The hooligans could be contained but not dispersed without serious risk to the troops.

### The Widgery Report and the 'New' Material

108. The reference to sniper fire south of William Street during the day appears to function as a rationale for a belief that IRA snipers might be present on 30 January, that this expectation was a logical one for the Army and a contributory factor in explaining the actions of individual soldiers on the ground. However, Lord Widgery at no point attempted to establish whether this was in fact the case on 30 January and did not examine whether it was a reasonable or well-founded assumption. But more significantly, in describing an affinity of purpose between "hooligans" and IRA snipers (i.e. to kill British soldiers) he suggested that those causing minor disturbances (e.g. stone throwing) were complicit in the danger, injuries and deaths suffered by British soldiers at the hands of the IRA. In other words, Lord Widgery clearly defined "hooligans" as a distinct entity serving as an adjunct of the IRA, and a successful one at that.

109. Without establishing on an objective factual basis their role in IRA tactics either generally or on 30 January 1972, Lord Widgery suggested that anyone throwing a stone or bottle appeared reasonably to the soldiers to be de facto a hooligan and therefore acting in support of the IRA. The apparent licence granted post hoc by this rationale to the security forces in dealing with even modest disturbances was, in those terms, obvious.

Para 15. It was the opinion of the Army commanders that if the march took place, whatever the intentions of NICRA might be, the hooligans backed up by the gunmen would take control. In the light of this view the security forces made their plans to block the march.

110. The new material and the version of events suggested by it is diametrically at odds with this ill-defined but portentous threat of the hooligans and gunmen taking control as defined by the Army and presented without challenge by Lord Widgery in his Report. The eyewitness accounts of the circumstances in which lethal force was used against civilians completely undermine the relevance of his description of the role of hooligans, if such a role ever actually existed, to the events of 30 January. Moreover, it was clearly not relevant to the events of the day since what disturbances occurred were minor and there was no evidence to suggest that the role assigned to hooligans by Lord Widgery existed in fact. This lack of relevance raises further questions about the presumptions inherent in the context offered by him and why they formed a part of the Report. It might well be asked why this context was included in a Report whose remit in time Lord Widgery himself limited to the moment when the march first became involved in violence. In short, the context offered by Lord Widgery appears to function less as necessary background and more as post hoc rationale for the acts of the British Army.

#### The Army Plan to Contain the March

Para 16. The proposed march placed the security forces in a dilemma. An attempt to stop by force a crowd of 5,000 or more, perhaps as many as 20 or 25,000, might result in heavy casualties or even in the overrunning of the troops by sheer weight of numbers. To allow such a well publicised march to take place without opposition however would bring the law into disrepute and make control of future marches impossible.

### The Widgery Report and the 'New' Material

111. The failure to provide an explanation to support his claim that allowing the march against internment to proceed would make control of future marches impossible was particularly cavalier not to say otiose in the circumstances of the widespread civil unrest being experienced in Northern Ireland at the time. From the nationalist perspective, the rule of law (i.e. a body of rules containing individual rights as well as executive powers) was brought into fundamental disrepute by the introduction of internment, an instrument of arbitrary State power which effectively dispensed with the law and which was directed overwhelmingly against nationalists. Had the repute of law been Lord Widgery's main concern, he might have alluded just once to the issue of internment which prompted the march on Bloody Sunday. His facile reasoning was all the more egregious since it was offered as justification for the ultimately lethal approach adopted by the authorities toward the march. If, as suggested by other contemporary sources, there was political involvement in the decision making process prior to the events of the day which directly affected the approach of the security forces, then Lord Widgery's proffered explanation may have concealed more than it revealed. If a significant degree of prior political direction can be fully established, then Lord Widgery failed to account for the actions and decisions of directly relevant and arguably responsible agencies.

Para 17. The final decision, which was taken by higher authority after General Ford and the Chief Constable had been consulted, was to allow the march to begin but to contain it within the general area of the Bogside and Creggan Estate....On 25 January General Ford put the Commander 8 Infantry Brigade in charge of the operation and ordered him to prepare a detailed plan. The plan is 8 Infantry Brigade Operation Order No 2/72 dated 27 January.

112. This paragraph contains one of the chief mysteries of Bloody Sunday; who took the "final decision"? Speaking for the British Government at Westminster on 1 February, 1972, Lord Balniel confirmed that "the arrest operation was discussed by the Joint Security Council after decisions had been taken by Ministers here." While denying that the Widgery Report suggested political pressure on the British Army, the Prime Minister, speaking in the House of Commons on the publication of the Report, said that in relation to the "higher authority" referred to by Lord Widgery, "the plan was prepared by the Brigade Commander and went to the Commander Land Forces. It also went to the General Officer Commanding, who discussed it with the Chief Constable; and it was known to Ministers. That is what I meant by saying that it was known to higher authority." Lord Balniel before the Inquiry and the Prime Minister after the publication of the Report identified, therefore, Lord Widgery's "higher authority" as Ministers. On this basis, there was clearly political sanction for the operation. Despite the acknowledged involvement by the Stormont and British Governments of the arrest operation in advance of 30 January, Lord Widgery failed to investigate the facts surrounding the political influence on the formulation of the British Army's plan of action or the political basis on which that plan was sanctioned.

### The Widgery Report and the 'New' Material

Para 20. Under the heading of "Hooliganism" the Operation Order provided:

"An arrest force is to be held centrally behind the check points and launched in a scoop-up operation to arrest as many hooligans and rioters as possible."

This links up with the specific task allotted to 1 Para which was in the following terms:

"1. Maintain a Brigade Arrest Force to conduct a scoop-up operation of as many hooligans and rioters as possible.

(a) This operation will only be launched either in whole or in part on the orders of the Brigade Commander.

(b) .....

(c) .....

(d) It is expected that the arrest operation will be conducted on foot.

2. A secondary role of the force will be to act as the second Brigade mobile reserve."

113. Lord Widgery omitted the directions for dealing with "Hooliganism" at (b) and (c). According to the Sunday Times Insight Team report published in April 1972 and that of Prof. Dash, part (c) of the Operation Order set out the geographical confines of the operation as follows; "the scoop up operation is likely to be launched on two axes, one directed towards hooligan activity in the area of William St./Little Diamond, and one towards the area of William St./Little James St." In other words, the order envisaged activity along William Street and not up Rossville Street. Lord Widgery's failure to spell this out was a telling one for it would have underlined the extent to which the movement of 1 Para had violated the Operation Order. If they were not following this plan, what plan, it can be legitimately asked, had they in mind?

Para 21. The Operation Order, which was classified "Secret", thus clearly allotted to 1 Para the task of an arrest operation against hooligans. Under cross-examination, however, the senior Army officers, and particularly General Ford, were severely attacked on the grounds that they did not genuinely intend to use 1 Para in this way. It was suggested that 1 Para had been specially brought to Londonderry because they were known to be the roughest and toughest unit in Northern Ireland and it was intended to use them in one of two ways: either to flush out any IRA gunmen in the Bogside and destroy them by superior training and fire power; or to send a punitive force into the Bogside to give the residents a rough handling and discourage them from making or supporting further attacks on the troops.

Para 22. There is not a shred of evidence to support these suggestions and they have been denied by all the officers concerned. I am satisfied that the Brigade Operation Order accurately expressed the Brigade Commander's intention for the employment of 1 Para and that suggestions to the contrary are unfounded. 1 Para was chosen for the arrest role because it was the only experienced uncommitted battalion in Northern Ireland.

### The Widgery Report and the 'New' Material

114. The suspicions that either of these scenarios in one form or another more accurately reflected the intention of those who deployed 1 Para have never been quite dispelled and were certainly not put to rest by the Widgery Report at the time. In fact, the emergence of the new material has reawakened in very forceful terms suspicions about what was the actual intent of the authorities and the British Army. The new material repeatedly begs the questions which have yet to be answered. Why were demonstrably unarmed and innocent civilians shot dead? Why was there fire from the Walls? Why did the soldiers act with such brutality generally, even to uniformed members of the Order of Malta trying to render assistance? Why was 1 Para used for an arrest operation in an area liable to IRA attack when by Lord Widgery's own description the Paras "show no particular concern for the safety of others in the vicinity of the target"? The suggestions put forward and dismissed by Lord Widgery appear to supply a more credible answer to these questions than the findings he presented in his Report.

115. Lord Widgery did not attempt to present a case for his assertion that there was "not a shred of evidence to support these suggestions" and was content to simply make this assertion. The argument that 1 Para was the only experienced uncommitted battalion in Northern Ireland for the arrest operation was hardly a convincing one. His judgement that the Operation Order accurately expressed the intention of the officer ostensibly in command, Brigadier McLellan, vis-a-vis the role of 1 Para did not properly address the concern that McLellan may not have been party to all of the decisions made regarding 1 Para, e.g, decisions involving General Ford, Lt. Col Wilford and very possibly Brigadier Kitson. The actions of members of 1 Para itself, the degree of force employed (as measured in terms of civilians dead and wounded), the absence of any injury to security force personnel, and the description of what happened as presented by highly credible eyewitnesses contrast so starkly with Lord Widgery's assertion that 1 Para was deployed as an arrest force that it now simply lacks credibility.

116. The NICRA/NCCL eyewitness statements raise serious questions about the commitment of the soldiers to a scoop up and arrest operation. Based on their accounts, there appears to have been a willingness to employ lethal force on unarmed civilians - many of whom were fleeing and some of whom were attempting to assist those already hit by fire. Overwhelmingly, these accounts agree that the groups amongst whom the victims were shot were not hostile and that the arrival of 1 Para provoked a sense of panic and a desire to flee the area or seek shelter from the live ammunition being fired at them. Given the degree of force used by the soldiers, their area of activity (i.e. outside that defined by the Operation Order) and the length of time in which 1 Para was deployed, it appeared that the Operation Order was simply being ignored by the soldiers on the ground. Possible explanations suggest themselves: members of 1 Para directly and wilfully ignored their orders to mount an arrest operation and simply ran amok; they believed their behaviour was in some way sanctioned or deemed acceptable by the authorities; or their actions formed part of a planned military operation which has yet to be revealed. It may be, in fact, that all of these factors were at play in determining the behaviour of the soldiers and their officers.

### The Widgery Report and the 'New' Material

117. More specifically, the alleged statements of Para AA include a claim that the anti-tank unit of 1 Para were directed by a Para Lieutenant (name supplied) the day before Bloody Sunday to get "some kills". It alleges that the Para Lieutenant said "lets teach those buggers a lesson - we want some kills tomorrow". The Para AA statement is treated more fully later but it is relevant to note at this stage that it does not contain any reference to an arrest operation but tends, in its description of the actions of members of 1 Para, to support the charges laid against General Ford and others which Lord Widgery had seen fit to dismiss.

118. The description in the Para AA document of the highly aggressive nature and attitude of members of 1 Para, its function as a trouble shooting unit, its briefing to "get some kills", further references about the unit being used elsewhere in Northern Ireland to draw IRA fire (i.e. "flush out and destroy") all add to the mystery of why 1 Para was chosen for what was ostensibly an arrest operation in a situation where violence might well occur in the midst of many civilians with the attendant risk to innocent lives.

Para 23. Another unjustified criticism of General Ford was persisted in throughout the Tribunal hearing. It was said that when heavy firing began and it became apparent that the operation had taken an unexpected course, the General made no attempt to discover the cause of the shooting but instead washed his hands of the affair and walked away. This criticism is based on a failure to understand the structure of command in the Army. The officer commanding the operation was the Commander 8 Brigade, who was in his Operations Room and was the only senior officer who had any general picture of what was going on. General Ford was present on the streets of Londonderry as an observer only. Although he had wireless equipment in his vehicle he was not accompanied by a wireless operator when on foot. When the serious shooting began the General was on foot in the neighbourhood of Chamberlain Street and had no means of knowing what was going on. Nothing would have been more likely to create chaos than for him to assume command or even to interfere with radio traffic by asking for information. Instead he did the only possible thing by going at once to an observation post from which he could observe the scene for himself.

119. Whatever about the value of Lord Widgery's self-imposed ordinance not to consider the question of who made all decisions relevant to the British Army's activities in the lead up to Bloody Sunday, the emergence of new material revives long standing questions about who contributed to the decision making process leading up to the operation in Derry and what considerations and calculations informed that decision. It deepens the concern about the claims of the involvement - in advance of the date of 25 January cited by Lord Widgery on which General Ford instructed Brigadier McLellan to prepare Operation Order 2/72 - of Brigadier Kitson, the role of the Northern Ireland Joint Security Council and, prior to that, of the British Government's Cabinet Committee on Northern Ireland. In this context, Lord Widgery's characterisation of General Ford's presence as purely an observer is unconvincing (as is the extraordinary claim that a request by Ford over the radio for information would of itself have created chaos).

### The Widgery Report and the 'New' Material

120. The emergence from the archives of a record of a meeting between the Prime Minister, the Lord Chancellor and the Lord Chief Justice which appears to have occurred on 31 January indicates remarkable speed and, combined with the specificity of the Prime Minister's advice to Lord Widgery, also tends to suggest a degree of political involvement throughout the decision making process. Since Lord Widgery failed to address this question, it has been left open to many suspicions and speculations. Undoubtedly, some clarification of precisely what political involvement there may or may not have been in the formation of the operational plans prior to Bloody Sunday may lie in the archives of the British Government and, one can assume, the memory of those who might have been involved.

121. Combined with the speculation about the nature of political involvement at the highest levels, the mere fact of General Ford's presence on the ground in Derry has long fuelled speculation that more than an arrest operation was afoot. These were encouraged at the time by the fact that General Ford assigned 1 Para to the arrest operation and actively encouraged 1 Para in their task on the ground when their deployment began (in testimony, General Ford said that as he was standing at barricade 14 when the arrest operation began, he had said "Go on, 1 Para, go and get them, and good luck").

122. Another claim has recently come to the Government's attention regarding General Ford's role. This asserts that a British Army officer was debriefed by a more senior officer on the Widgery Report and implies that the latter was deeply unhappy with the treatment of Brigadier McLellan in it. In the course of this debriefing, it was alleged that General Ford played a very active role, contrary to Lord Widgery's assertion, in determining the actions of British Army units and issued instructions without the knowledge or consent of Brigadier McLellan. It is claimed that General Ford directed British Army fire from the vicinity of Derry Walls. Broadly speaking, this claim alleges that General Ford was the true commander of the key British Army units and actions on the ground which resulted in Bloody Sunday. As with any claims about the chain of command and responsibility, this particular claim could be checked against official records.

### The March as it Happened

Para 24. The marchers assembled on the Creggan Estate on a fine sunny afternoon and in carnival mood....When in due course they appeared at the west end of William Street it was obvious that their direct route to the Guildhall Square lay along William Street itself and that the march would come face to face with the Army at barrier 14 in that street. At this stage it became noticeable that a large number of youths, of what was described throughout the Inquiry as the hooligan type, had placed themselves at the head of the march; indeed some of them were in front of the lorry itself....nothing of real consequence occurred until the marchers reached the barriers in Little James Street and William Street. When the leaders of the march reached the junction of William Street and Rossville Street the lorry turned to its right to go along Rossville Street and the stewards made strenuous efforts to persuade the marchers to follow the lorry. It is quite evident now that the leaders of the march had decided before setting off from the Creggan Estate that they would take this course and thus avoid a head-on confrontation with the Army at the William Street barrier.

### The Widgery Report and the 'New' Material

123. Lord Widgery's identification of a large number of youths as hooligans at this point implicitly recalled his earlier description of rioters as hooligans acting in concert with IRA gunmen. Without an explicit statement that this was not the case, there is left the presumption that their role as "hooligans" would again be similar - i.e. likely to provide cover for attacks on the security forces by IRA gunmen - and that consequently one could presume that the IRA were in the vicinity, if not already in their midst. Lord Widgery did not attempt to establish that either of these presumptions were true on the day in question or to address the question as to whether the security forces might have had prior information on this. Rather, the fact that the march began in carnival mood strongly suggests that those participating in it did not anticipate attacks of the type described earlier by Lord Widgery; had gunmen been operating in the area ready to take advantage of rioting, this would have been very clear to the marchers and the atmosphere could not have been as relaxed as indeed it was.

124. Furthermore, Lord Widgery asserts as "quite evident now" that the march organisers had veered up Rossville Street to avoid confrontation at barrier 14 "before setting off from the Creggan" as if it could not have been known at the time. This suggests that the decision by the march organisers to avoid confrontation was not available to the security forces at the time. Yet Chief Superintendent Lagan had informed the military authorities of this intention and had confirmed it on the morning of the march; Lagan gave his account of this in testimony to the Tribunal. Despite this, Lord Widgery made no reference to these assurances and made no effort to address in his Report the intentions and plans of the march organisers to avoid confrontation and ensure that the march passed off peacefully. Nor did he refer to the impact on the population of the Bogside of the violent behaviour of the Paras toward anti-internment demonstrators on the beach outside Magilligan Prison a week beforehand and which had alerted the march organisers to the danger of disturbances when the Paras were deployed. All of these would appear to be crucial factors in assessing the events of the day and the "reasonableness" under law of the actions of the security forces.

Para 25. The films show at least one middle-aged man making some attempt to move the barrier aside. Had other members of the crowd followed his example, the results might have been disastrous..... After a time the movement of the crowd at the rear reduced the pressure on those at the front in William Street and the crowd in front of the barrier began to thin out somewhat. The hooligans at once took advantage of the opportunity to start stone-throwing on a very violent scale. Not only stones, but objects such as fire grates and metal rods used as lances were thrown violently at the troops in a most dangerous way....Some witnesses have sought to play down this part of the incident and to suggest that it was nothing more than a little light stoning of the kind which occurs on most afternoons in this district and is accepted as customary. All I can say is that if this in any way represents normality the degree of violence to which the troops are normally subjected is very much greater than I suspect most people in Britain have appreciated.....At about 15.55 hours the troops appeared to be reaching a position in which they might disperse the rioters and relieve the pressure upon themselves....It was at this point that the decision to go ahead with the arrest operation, for which 1 Para was earmarked, was made.

### The Widgery Report and the 'New' Material

125. Again, Lord Widgery failed even to refer to the presence or likely presence of IRA gunmen at this barricade much less invoke evidence to prove that the paramilitary tactics so carefully described in his introduction represented a genuine threat to the British soldiers on the day. Moreover, as McMahon so pointedly makes clear,

... apart from the irrelevance of his appeal to the knowledge of 'most people in Britain', Lord Widgery's reluctance to pronounce on the normality or abnormality of the stoning is remarkable...With such specific knowledge [of the security situation 1 August 1971 to 9 February 1972 detailed in paragraphs 10 to 15 of the Report] and with the wealth of evidence on the events of the afternoon of 30 January, it was remarkable that Lord Widgery could not decide, even in general terms, whether the stone throwing on the afternoon in question was of abnormal intensity or of a customary kind in this area. This was an important point in view of the reaction the stoning is supposed to have triggered.

126. Paragraph 25 is a clear example of Lord Widgery's tendency, particularly on critical questions, to avoid making relevant judgements and drawing appropriate conclusions. This was despite the fact that Chief Superintendent Lagan fully expected that bottles and stones would be thrown and that it was almost an everyday event, a view communicated at the time to the military authorities and attested to in the course of the Inquiry. The evidence of the NICRA/NCCL statements was that the incident at this barricade was a modest disturbance representing a relatively low key threat to the security forces by the standards of the time. This paragraph is also significant in that it clearly states that by 1555 hrs, before 1 Para began its "arrest operation", the crisis, such as it was, had passed and the soldiers would shortly be in position to disperse remaining rioters.

#### The Launching of the Arrest Operation

Para 26. Since the tactics of the arrest operation were to be determined by the location and strength of the rioters at the time when it was launched, the Brigade Order left them to be decided by Lieutenant Colonel Wilford, Commanding Officer of 1 Para. He had three Companies available for the arrest operation: A Company, C Company and Support Company, the latter being reinforced by a Composite Platoon from Administrative Company. (A fourth Company had been detached and put under command of 22 Light Air Defence Regiment for duties elsewhere in Londonderry.) In the event these three Companies moved forward at the same time. A Company operated in the region of the Little Diamond and played no significant part in the events with which the Inquiry was concerned. C Company went forward on foot through barrier 14 and along Chamberlain Street, while Support Company drove in vehicles through barrier 12 into Rossville Street to encircle rioters on the waste ground or pursued by C Company along Chamberlain Street. The only Company of 1 Para to open fire that afternoon—other than with riot guns—was Support Company.

### The Widgery Report and the 'New' Material

127. In light of the new material's strong suggestion that there was firing from the vicinity of Derry Walls, the assertion that only 1 Para opened fire that afternoon is now open to question. It either means that soldiers other than 1 Para opened fire or that the fourth company of 1 Para on duty elsewhere in Derry was on the Walls and opened fire. Either way, Lord Widgery failed to account for the actions of the soldiers around the Walls who, it now seems clear, opened fire and possibly hit and killed civilians. Since this fundamental assertion, so critical to cause, effect and culpability, is now open to clear contradiction, then the Widgery Report by this measure alone is fatally flawed as an account of what actually happened.

128. This paragraph also proffers some very intriguing questions. Where in Derry was this fourth company of Paras located? How could it have been spared since, according to Lord Widgery, 1 Para was the only uncommitted experienced unit available for the arrest operation? What were its duties? Did this company contain snipers? Where was the 22 Light Air Defence Regiment and what duties had it assigned to this fourth company? What duties were assigned to the 22 Light Air Defence Regiment? What roles and duties were assigned to the other British Army units which have been identified as probably operating in and around Derry on that day? Why was Derry under what appeared to be virtual military siege as attested to by civilians trying to reach it? What role was assigned to each of these units in the broader plan of coordination and what bearing did this have on the events of the day? By concentrating primarily on the arrest operation, Lord Widgery failed to address critical questions about the British Army's intentions - questions the significance of which have become all the more apparent in the light of recent revelations.

129. Furthermore, Lord Widgery writes that "in the event" the three companies moved forward together. Was this coincidence? Or was it part of a coordinated movement? The movement of ten vehicles and an organised complement of soldiers into the Bogside could not have been organised spontaneously. If as logic dictates it was a coordinated movement, who coordinated it and why? What was its overall purpose in simultaneously moving along two axes not sanctioned in the Operation Order? What, in other words, had Lt. Col. Wilford in mind? Lord Widgery failed to explain this apparent manoeuvre and its purpose and failed to come to a judgement as to what it might reveal about the British Army's intentions. Whatever might be known about what happened on the day, the why remains to all intents and purposes a mystery.

Para 27. Before the wisdom of the order launching the arrest operation is considered it is necessary to decide who gave it. According to the Commander 8 Brigade and his Brigade Major (Lieutenant Colonel Steele) the operation was authorised by the Brigadier personally, as indeed was envisaged in the Brigade Order. The order for 1 Para to go in and make arrests was passed by the Brigade Major to the Commanding Officer 1 Para on a secure wireless link, ie one which was not open to eavesdropping. This link was used because the arrest operation depended on surprise for its success and it was known that normal military wireless traffic was not secure. The Commanding Officer 1 Para confirmed that he received the order and all three officers agreed that the order was in terms which left the Commanding Officer free to employ all three Companies.

### The Widgery Report and the 'New' Material

Para 28. During the Inquiry however it was contended that the Brigadier did not authorise the arrest operation and that it was carried out by Lieutenant Colonel Wilford in defiance of orders or without orders and on his own initiative. The suspicion that Lieutenant Colonel Wilford acted without authority derives from the absence of any relevant order in the verbatim record of wireless traffic on the ordinary Brigade net. This omission was due to the use of the secure wireless link for this one vital order, as mentioned in the previous paragraph.

130. There remain grounds for serious doubt about Brigadier McLellan's role in ordering the launch of the arrest operation (logs of the secure transmissions would clarify this point) and whether in fact he had authorised the use of all three companies as asserted here by Lord Widgery. Since there was, in fact, no written record in the brigade log of such an order, Lord Widgery chose to dismiss the written official record in favour of the oral testimony offered post hoc by participants, as McMahon points out. This points to a serious flaw in the Widgery Report on the vital point of who was in command of the British Army units involved in Bloody Sunday.

131. Clearly the secure link provided the vital conduit for the communication of orders and suggested that the Army was preparing to encounter a formidable enemy capable of monitoring its open communications and undertaking counter measures. To whom was this link available at the time? What messages were conveyed on it? Furthermore, why were two distinct modes of communication used, one secure and the other open? The messages on the secure link would appear to be far more germane to understanding the intentions and actions of the key British Army units than the messages recorded on the open lines. The Widgery Report was seriously flawed in not attempting to locate or examine, even in camera, the logs recording messages given and received on the secure link. Furthermore, tracing which officers and units were in communication on this secure link would have allowed for greater clarity as to which officers and units were responsible for particular actions undertaken, such as the when, where and why of the use of lethal force.

Para 29. Other circumstances which suggest that 1 Para moved without orders are less easily explained. The Brigade Log, which is maintained in the Brigade Operations Room and is a minute by minute record of events and messages, regardless of the method of communication used, contains the following entries: "Serial 147, 1555 hours from 1 Para. Would like to deploy sub-unit through barricade 14 to pick up yobbos in William Street/Little James Street."  
"Serial 159, 1609 hours from Brigade Major. Orders given to 1 Para at 1607 hours for one sub-unit of 1 Para to do scoop-up op through barrier 14. Not to conduct running battle down Rossville Street."

### The Widgery Report and the 'New' Material

Serial 159 is identified by the Brigade Major as recording the Brigadier's instruction for 1 Para to move; but its terms are inconsistent with the employment of three Companies. (a sub-unit is a Company.) Further, the Brigade Operation Order said that it was expected that the arrest operation would be conducted on foot and that the two axes of advance were likely to be towards the areas of William Street/Little Diamond and William Street/Little James Street, ie the Order did not contemplate the use of Rossville Street as an axis of advance; and whatever the prohibition of a "running battle down Rossville Street" was intended to imply it at least suggests that a penetration in depth at this point was not intended. It has been contended that the Brigade log shows prima facie that the only action which 1 Para was authorised to carry out was the limited one for which permission had been sought in the message recorded in Serial 147. This view is supported by the evidence of Chief Superintendent Lagan, who was in the Brigadier's office at the relevant time and who formed the impression that 1 Para had acted without authority from the Brigadier.

132. Lord Widgery acknowledged that the terms of these orders were inconsistent with employing three companies and noted the suggestion that Rossville Street, on the basis of this evidence, was not contemplated as an axis of advance. However, the new material, which has resurrected suggestions that something other than an arrest operation was afoot, also adds considerably to the significance of Brigadier McLellan's order not to conduct a running battle up Rossville Street. From this perspective, Brigadier McLellan's injunction would have had, at a stroke, frustrated a flush out and destroy operation. Had Lord Widgery not dismissed the allegations that the actions of the Paras were more consistent with a flush out and destroy operation than an arrest one, he would have had to deal more adequately with Brigadier McLellan's orders as recorded in the brigade log and particularly his injunction about Rossville Street. The new material, and the terms in which it describes the actions of the Paras, resurrects the key question as to what is the most reasonable interpretation of the written military records and the actions of the soldiers on the ground.

Para 30. It is understandable that these circumstances have given rise to suspicion that the CO 1 Para exceeded his orders, but I do not accept this conclusion in the face of the sworn evidence of the three officers concerned. I think that the most likely explanation is that when the Brigade Major gave instructions to the log keeper to make the entry which appears as Serial 159 the latter mistakenly thought that the order was a response to the request in Serial 147 and he entered it accordingly.

133. Lord Widgery's decision to accept the sworn testimony of the three officers concerned (though not all of the relevant officers, such as the note-keeper) conveniently but not convincingly removed the difficulties presented by the written records. As McMahon points out, "Lord Widgery not only accepted oral evidence in preference to written evidence, but also preferred the evidence of implicated persons to that of independent witnesses. He also rejected what is traditionally recognised as a reliable source of evidence; official records."

### **The Widgery Report and the 'New' Material**

Should the Arrest Operation have been Launched at all ?

Para 31. By 1600 hours the pressure on barrier 14 had relaxed. There were still 100 to 200 hooligans in the William Street area but most of the non-violent marchers had either turned for home or were making their way down Rossville Street to attend a meeting at Free Derry Corner where about 500 were already assembled. (Still of Army helicopter film EP 29/16.) On the waste ground between the Rossville Flats and William Street there was a mixed crowd of perhaps 200 which included some rioters together with marchers, local residents, newspapermen and sightseers who were moving aimlessly about or chatting in groups. (Mr Tucker's photographs EP 28/1 to 4.) This was the situation when Commander 8 Brigade ordered 1 Para to move forward and make arrests.

134. Given that there was army helicopter film, the question can legitimately be asked whether the events of Bloody Sunday were actually filmed in full and whether such a record is available. This paragraph further illustrates that the situation, despite the fact of continued stone throwing, had eased considerably and that the crowd between Rossville Flats and William Street, into which 1 Para drove its assault, was for the most part mixed, aimless and relaxed.

Para 32. In the light of events the wisdom of carrying out the arrest operation is debatable. The Army had achieved its main purpose of containing the march and although some rioters were still active in William Street they could have been dispersed without difficulty. It may well be that if the Army had maintained its "low key" attitude the rest of the day would have passed off without further serious incident. On the other hand the Army had been subjected to severe stoning for upwards of half an hour; and the future threat to law and order posed by the hard core of hooligans in Londonderry made the arrest of some of them a legitimate security objective. The presence of 1 Para provided just the opportunity to carry this out.

Para 33. In view of the large numbers of people about in the area the arrest operation presented two particular risks: first, that in a large scale scoop-up of rioters a number of people who were not rioters would be caught in the net and perhaps roughly handled; secondly, that if the troops were fired upon and returned fire innocent civilians might well be injured.

135. These paragraphs clearly understated the dangers faced by the civilians in and around Rossville Street once 1 Para was mobilised. In the light of the Para AA document, its claims about the brutal esprit de corps prevailing in the Parachute Regiment, and the widely acknowledged acceptance - even by Lord Widgery - that the Paras were particularly aggressive in their approach, there could have been little doubt in the minds of the commanding officers of the likely risk to civilians present when 1 Para deployed. Apparently under the sights of British Army snipers viewing the situation from elevated positions near the Walls and an officer located overhead in a helicopter, a military unit known to be particularly aggressive and ruthless was deployed in a rapid advance simultaneously up Chamberlain Street and Rossville Street against a mixed, aimless and relaxed crowd dispersing from a relatively minor disturbance toward Free Derry corner. This advance, contrary to the orders of Brigadier McLellan, was into an area in which the Army reportedly believed these soldiers were liable to sniper attack by members of the IRA located in and around the Rossville Flats complex.

### **The Widgery Report and the 'New' Material**

Para 34. Whether the Brigade Commander was guilty of an error of judgment in giving orders for the arrest operation to proceed is a question which others can judge as well or better than I can. It was a decision made in good faith by an experienced officer on the information available to him, but he underestimated the dangers involved.

136. Since Lord Widgery, contrary to the record, ascribed to Brigadier McLellan the responsibility of launching the arrest operation (without which, as Lord Widgery conceded, there may have been no deaths that day), Brigadier McLellan bore the weight of responsibility for the consequences of that action. Yet Lord Widgery, charged with the investigation into the most serious incident involving the British Army in its recent history, simply refused to make a judgement on whether or not Brigadier McLellan made a fatal error of judgement which resulted in 13 deaths that afternoon. This not only contrasts with the certitude with which he laid the blame for the events of that day on the march organisers, but avoids what must by any reasonable standard be seen as the reason for holding the Inquiry in the first place.

137. That is not to claim that Brigadier McLellan was actually the responsible agent in precipitating the operation which led to the civilian casualties since questions remain as to his control on the day and on the nature of the authorities' overall intentions. One might even make the argument that Brigadier McLellan, as demonstrated by the official record, gave an order not to conduct a running battle down Rossville Street which, if adhered to by 1 Para, would undoubtedly have greatly diminished - even to the point of elimination - the risk to civilians. In considering whether Brigadier McLellan gave an accurate account in testimony, Prof. Dash asked: "Even if General Ford had given the order, could Brigadier McLellan be expected to repudiate his commanding officer? Or, if 1 Para had acted without orders at all, would Brigadier McLellan's basic loyalty to the Army, or his concern for the reputation of the British government, permit him to expose such shocking conduct, especially after the tragic events of January 30?" Prof. Dash concludes that the crucial question of orders "was not resolved by the Tribunal Inquiry, and certainly not by Lord Widgery's Report."

#### The First High Velocity Rounds

Para 35. ...The Company Commander of the Support Company found a route over a wall by the side of the Presbyterian Church which he considered might be useful for this purpose, but which was obstructed by wire. Accordingly he sent a wire-cutting party to make this route usable if required. Whilst some soldiers from the Mortar Platoon were cutting the wire a single high velocity round was fired from somewhere near the Rossville Flats and struck a rainwater pipe on the side of the Presbyterian Church just above their heads. A large number of witnesses gave evidence about this incident, which clearly occurred, and which proves that at that stage there was at least one sniper, equipped with a high velocity weapon, established somewhere in the vicinity of the Rossville Flats and prepared to open fire on the soldiers.

### The Widgery Report and the 'New' Material

138. Lord Widgery did not make clear here that the witnesses to this event were military. None of the NICRA/NCCL statements or the eyewitness statements given to the Government in 1972 attest to this event as described by Lord Widgery. In seeking to establish the threat of sniper fire from Rossville Flats as he does in this instance, Lord Widgery logically called into question the subsequent decision to send soldiers into the open areas in front of these flats.

Para 36. The Company Commander of Support Company had sent a number of men forward to cover the wire-cutting party. Some of these men established themselves on the two lower floors of a three storey derelict building on William Street....A hail of missiles was thrown at these soldiers. After a time Soldier A fired two rounds and Soldier B fired three rounds. There is no doubt that this shooting wounded Mr John Johnson and Mr Damien Donaghy. Evidence from civilians in the neighbourhood, including Mr Johnson himself, is to the effect that although stones were being thrown no firearms or bombs were being used against the soldiers in the derelict building. Having seen and heard Mr Johnson I have no doubt that he was telling the truth as he saw it. He was obviously an innocent passer-by going about his own business in Londonderry that afternoon and was almost certainly shot by accident. I have not thought it necessary to take a statement from Mr Donaghy, who was injured more seriously and was still in hospital when I finished hearing evidence. I am quite satisfied that had he given evidence it would have been in the same sense as that given by Mr Johnson.

139. It is interesting to note here that the wire-cutting party was being given cover by Support Company. In the light of the new material and evidence that firing occurred from elevated positions, the question arises as to what cover was established, and where it was situated, to protect Support Company when it later advanced up Rossville Street - all the more so since it had been claimed that a high velocity shot had come from Rossville Flats. Lord Widgery did not offer any insight into what cover was organised for the soldiers moving up Rossville Street. If such cover was not present, it would seem a dereliction of duty by the officers commanding. If it was, did it open fire as so many eyewitnesses attest and thereby contribute to the fatal events that followed? It is also interesting to note that while Lord Widgery recorded the views of eyewitnesses that only stones were thrown and while he was prepared to say that he believed Mr. Johnson was telling the truth as he saw it, Lord Widgery did not offer a similar judgement on the views of those other eyewitnesses about the type of projectiles being used, nor did he seek to hear the views of Damien Donaghy - despite his relevance as one of the wounded and despite the nature of the allegations being levelled at him by the soldiers. Had Lord Widgery done so, he would have had considerable difficulty in accepting the accounts offered by the implicated soldiers.

Para 37. ...The man reappeared carrying an object in his right hand and made the actions of striking a fuse match against the wall with his left hand. When he brought his two hands together soldier A assumed that he was about to light a nail bomb, took aim and fired at him.

Para 38. ...[soldier B] noticed one man come out from the waste ground across William Street carrying in his right hand a black cylindrical object which looked like a nail bomb. With his left hand he struck the wall with a match. Thinking that the man was about to light the nail bomb, and that there was no time to wait for orders from his Platoon Sergeant, soldier B took aim and fired.

### The Widgery Report and the 'New' Material

140. These paragraphs concern the shootings of Damian Donaghy and John Johnson in William Street, both wounded at the time (Johnson subsequently died, reportedly as a result of his wounds). These were the first victims of Bloody Sunday. Lord Widgery cleared the victims of any suggestion that they were trying to light or were lighting a bomb. He relates the accounts of soldiers A and B as being "in similar terms" and supports their belief that they had been attacked by nail bombs but finds "it impossible to reach any conclusions as to whether explosive substances were thrown at these soldiers or not."

141. It is clear, however, that the original statements made by these soldiers to the Military Police, as detailed by Prof. Walsh, were significantly different to their subsequent description of events. In this original statement, Soldier A placed the target at a different spot and claimed that the target struck the nail bomb against the wall to ignite it with his right hand and was in the process of passing it into his left hand when he was shot and hit by Soldier A. Two men dragged the target away. Soldier B gave a very similar account, though B claimed that the target lit something with his left hand and was about to ignite the object in his right hand. Both also claimed that two nail bombs exploded near them prior to this. Yet no nail bombs were recovered from the scene. No civilian eyewitness identified nail bombs being used. No civilian eyewitness described the incident depicted by the soldiers. Soldier A corrected his placement of the target in a subsequent statement to the Treasury Solicitors and, significantly, also changed his statement to say that the target moved his left hand down the wall which had the effect of matching it to the account given by Soldier B.

142. It is clear that the soldiers' testimony to the Tribunal was open to the charge that it had been changed and was therefore unreliable. Since these changes were not revealed to Counsel for the next of kin, the cross-examination was denied the opportunity of addressing the discrepancies of place and movements. Since a reasonable number of the authors of the eyewitness statements were not called to testify, the possibility of refuting the soldiers' testimony as being tantamount to fiction was never properly explored.

Para 39. I find it impossible to reach any conclusion as to whether explosive substances were thrown at these soldiers or not. Mere negative evidence that nail bombs were not seen or heard is of relatively little importance in a situation in which there was already a great deal of noise. Baton rounds were being fired from the barrier in Little James Street nearby and there were other distractions for the various witnesses. Having seen Soldiers A and B vigorously cross-examined I accept that they thought, rightly or wrongly, that the missiles being thrown towards them included a nail bomb or bombs; and that they thought, rightly or wrongly, that one of the members of the crowd was engaged in suspicious action similar to that of striking a match and lighting a nail bomb. The soldiers fired in the belief that they were entitled to do so by their orders. Whether or not the circumstances were really such as to warrant firing there is no reason whatever to suppose that either Mr. Johnson or Mr. Donaghy was in fact trying to light or throw a bomb.

### The Widgery Report and the 'New' Material

143. It seems extraordinary that Lord Widgery found it impossible to reach a conclusion as to whether nail bombs were thrown. Both soldiers, in identical terms, describe two nail bombs landing nearby before they opened fire. Either they were telling the truth or they were not. Since they were implicated witnesses, since the emergence of the archival material demonstrates that they made significant changes to their testimony and since eyewitnesses failed to corroborate their version, there are clear grounds for disbelieving their account. Furthermore, since both soldiers A and B claimed to have fired aimed shots, and since Lord Widgery accepted that the wounded were innocent, then logically he ought to have concluded that soldier A and soldier B aimed at and hit two innocent civilians.

144. As to Lord Widgery's claim that mere negative evidence (i.e. no eyewitnesses identified the use of nail bombs) is of relatively little importance, McMahon rightly poses the question "how else could the civilians prove there was no bomb except by declaring that they had not seen any?" He goes on, "in circumstances like those under scrutiny it would be almost inconceivable for civilians to prove the absence of nail bombs, etc., other than by negative evidence.....Negative truth is better than positive lies. It is very difficult to prove a negative statement (e.g. that there were no bombs) other than by negative evidence."

145. Had Lord Widgery concluded, as the weight of evidence suggests, that there were no nail bombs thrown, then the soldiers' belief that they were entitled to fire would have been seriously undermined. The soldiers' subjective belief - even if substantiated - that they were entitled to fire is not a sufficient justification for firing. Lord Widgery's failure to apply an objective standard of reasonableness to the actions of the soldiers, so evident here, set the pattern in his overall Report regarding the actions of British Army personnel.

146. Why Soldier A and B chose to shoot Donaghy and Johnson remains a mystery. Don Mullan states that many believe that these early shots, fired by Support Company of 1 Para and hitting Donaghy and Johnson, "were aimed at drawing the IRA units down into the Bogside.....the IRA reaction did not materialise....When the Paras moved into Rossville Street twenty minutes later, the fusillade of bombs and bullets they later claimed they encountered simply did not occur." The validity of this belief can only be fully assessed in the light of further information on or clarification of the British Army's prior intentions and on the role envisaged for 1 Para.

#### Support Company in Action

Para 40. An ammunition check on return to barracks showed that Support Company of 1 Para had, in the course of 30 January, expended 108 rounds of 7.62 mm ammunition....Five rounds of 7.62 mm ammunition had been fired by Soldiers A and B as already described in paragraph 36 above and one had been ejected unfired by a soldier in clearing a stoppage in his rifle. The remaining 102 rounds were fired by soldiers of Support Company in a period of under 30 minutes between 1610 and 1640 hours. About 20 more rounds were fired by the Army in Londonderry that afternoon, but not by 1 Para and not in the area with which the Tribunal was primarily concerned.

### The Widgery Report and the 'New' Material

147. Lord Widgery could not account for 19 shots by soldier H who claimed that he saw and fired on a gunman who appeared in a window 19 times in a row. Despite the accommodating calisthenics of the gunman, soldier H failed either to hit him, the window or even the building. While Lord Widgery at least balked at accepting soldier H's fanciful explanation, he did not attempt to provide an alternative explanation in order to account for this ammunition. He failed, therefore, to account for some 39 bullets fired out of a total of 128 rounds (i.e. 30%) which, by his reckoning, were fired by the Army that day in Derry. Nor did Lord Widgery seek to censure the soldier for attempting to mislead the Inquiry.

148. The official tally of ammunition fired has now been seriously undermined by the Para AA document. According to Para AA, members of 1 Para colluded to conceal how many bullets they had individually fired, had their own personal supply of ammunition and used dum-dum bullets. According to the Para AA statement,

"Several of the blokes had fired their own personal supply of dum-dums. Para BB for one fired 10 dum-dums into the crowd but as he still had his official quota he got away with saying he never fired a shot in the subsequent investigations. This happened with several people in my vehicle. Para CC fired 22 rounds but was stupid enough to boast about it within the sergeant's hearing before he could spread them out i.e. add a few to each of our tallys."

149. Para AA's allegation that dum-dum bullets were used is particularly startling. It bespeaks not only a culture of ill-discipline but the use of ammunition banned under the Geneva Conventions. Furthermore, it may explain the particular nature of the wounds suffered by Barney McGuigan, for example, which indicated that the bullet which struck him in the head had apparently shattered on impact. Lord Widgery's apparent assiduousness in accounting for all ammunition and his reckoning of the total amount did not match the civilian eyewitness accounts which invariably described a sustained fusillade of fire from many directions; it seems highly unlikely that this description matches the rate of 3-4 rounds a minute over a 30 minute period indicated by Lord Widgery. This discrepancy may well be explained in part by the Para AA statement.

150. The fact that 20 shots were also fired by the British Army outside the area of Lord Widgery's primary concern opens up an intriguing question. A close reading of Lord Widgery's syntax reveals that one could argue that it did not rule out that shots were fired from the vicinity of the Walls (i.e. outside the narrow confines defined by Lord Widgery) but hit people within that area. Lord Widgery did not investigate the likely trajectory of fatal shots. The new material reveals that such an examination at the time may well have revealed significant information regarding the source of some of the fatal shots as coming from the vicinity of Derry Walls.

Para 41. Support Company advanced through barrier 12 and down Rossville Street in a convoy of 10 vehicles. A photograph taken very shortly afterwards shows the Guildhall clock standing at 10 minutes past 4 (EP35/20). In the lead was the Mortar Platoon commanded by Lieutenant N.... The rear was brought up by two further APCs carrying the Anti-Tank Platoon, which consisted of Lieutenant 119 in command and 17 other ranks.

### The Widgery Report and the 'New' Material

151. The assembly of 10 vehicles containing organised units of soldiers and deploying in a choreographed manner suggests a considerable degree of prior coordination and deliberation. Such a movement was clearly contrary to the Brigade Operation Order, both in the use of vehicles and in the area in which they and the soldiers were deployed. The new material relates that this deployment was carried out at considerable speed and that one of the Saracens "deliberately hit an elderly man". One eyewitness relates that a soldier appeared between the Saracens, without riot gear, firing from his hip, apparently at random.

Para 42. According to Major 736 his orders were simply to go through barrier 12 and arrest as many rioters as possible. As the rioters retreated down Rossville Street he went after them.

Para 43. The leading APC (Lieutenant N) turned left off Rossville Street and halted on the waste ground near to where Eden Place used to be. The second APC (Sergeant O) went somewhat further and halted in the courtyard of the Rossville Flats near the north end of the western (or No 1) Block. The Platoon immediately dismounted. Soldier P and one or two others from Sergeant O's vehicle moved towards Rossville Street but the remainder of the Platoon started to make arrests near to their vehicles.

Para 44. Meanwhile the remainder of Support Company vehicles had halted in Rossville Street. The Company Commander (Major 236) says that his command vehicle came under fire so he moved it with his scout car in attendance to the north end of No 1 Block of the Flats to obtain cover...The Anti-Tank Platoon's vehicles halted behind the 4-ton lorries and the men of that Platoon dismounted and moved to Kells Walk. Some of these men were to appear later in Glenfada Park. The Composite Platoon Commander deployed half of his men to the east in support of the Mortar Platoon, the other half to the west in support of the Anti-Tank Platoon.

Para 45. Thereafter Support Company operated in three areas which require separate examination: the courtyard of the Rossville Flats; Rossville Street from Kells Walk to the improvised barricade; and lastly the area of Glenfada Park and Abbey Park.

152. This account is not subject to any comment by Lord Widgery and is presented as a straight narrative. In its economy of the truth, it is a highly misleading account. Lord Widgery's flat statement that the soldiers "started to make arrests" does not convey the nature of their arrival, an important factor which explains why the crowd reacted in panic and attempted to flee. The civilian eyewitnesses are at one on the exceptional and frightening degree of aggression and brutality deployed. The following selection is illustrative:

- A boy was running away from them and a soldier went down on one knee and fired his rifle and the boy pitched forward. There was a large amount of blood around him. I then saw three soldiers beating a man with batons.(Isabelle Duffy)

### The Widgery Report and the 'New' Material

- Two soldiers came down Rossville Street with a man in a black suit - half walking and half dragged, receiving blows from the muzzle of the soldier's gun and the butt of the other soldier's gun. When they got behind the Saracens, I saw him struck on the body and fall. Whilst on the ground, I saw him kicked by two other soldiers. They lifted him and threw him bodily into the Saracen...[Another] young boy appeared to be pleading with him [a Para]....The paratrooper [a second one] ran back behind the boy and hit him on the back of the head with the butt of his rifle...as he marched him to the Saracen kept hitting him with the muzzle of the gun....I saw a soldier in a kneeling position, firing straight up Rossville Street towards the barricade. He seemed to have fired a full magazine ....(Tony D.)

- One Saracen knocked a man on the ground and a soldier jumped out. He kept the man on the ground by battering him with the butt of his rifle and another soldier shot at this man from very close range. Then the soldiers seemed to go berserk and were shooting everywhere. Women and children were running for cover, screaming. (Agnes Hume)

153. Furthermore, Lord Widgery does not challenge Major 236's claim that he was fired on. By Lord Widgery's own measure, who fired first was considered to be "vital" and "probably the most important single issue which I have been required to determine." Yet he failed to deal in this narrative with the warning shots which Lt. N, leading the mortar platoon which was the first to debus in Rossville Street, claimed to have fired before he heard any other shots. Indeed, Lord Widgery did not even refer to this event in paragraph 43 despite its obvious relevance. As Prof. Walsh points out, "the Tribunal ignored the strong possibility that these shots were the first fired on Rossville Street when making its determination on who fired first." In short, these paragraphs are an inaccurate and misleading account of "Support Company in Action".

- (a) The activities of Mortar Platoon in the courtyard of the Rossville Flats
- (b)

Para 46. As soon as the vehicles appeared in William Street the crowd on the waste ground began to run away to the south and was augmented by many other people driven out of Chamberlain Street by C Company.....The crowd ran not because they thought the soldiers would open fire upon them but because they feared arrest. Though there was complete confidence that the soldiers would not fire unless fired upon, experienced citizens like Father Daly recognised that an arrest operation was in progress and wished to avoid the rubber bullets and rough handling which this might involve. One of the photographs taken by Mr Tucker from his home in the central block of the Rossville Flats shows clearly what was happening at this stage. However, careful study of the photograph (EP28/5) shows that many of the crowd remained under cover in the doorways of the Flats or remained facing the vehicles to see how far they would come.

### The Widgery Report and the 'New' Material

154. On the face of it, this paragraph was an astonishingly confident assertion of what motivated the crowd (which he had described as mixed) i.e. fear of arrest and rough handling combined with "complete confidence" that the soldiers would not fire unless fired upon. The new material, particularly the eyewitness statements and the Para AA document, undermines this assertion. They demonstrate forcefully the sense of fear and panic which seized most civilians present with the arrival of the Paras and the soldiers' immediately aggressive behaviour, followed so rapidly by the use of live ammunition. Lord Widgery's characterisation of those seeking cover in order to adjudge how far the Paras would advance is a travesty of what was actually going on - civilians fleeing the Paras and then attempting to seek cover from the fire directed into their midst.

Para 47. The APCs of Mortar Platoon penetrated more deeply than was expected by the crowd, which caused some panic....As soon as the vehicles halted the soldiers of Mortar Platoon began to make arrests....But within a minute or two firing broke out and within about the next 10 minutes the soldiers of Mortar Platoon had fired 42 rounds of 7.62 mm ammunition and one casualty (John Duddy) lay dead in the courtyard.

Para 48. This action in the courtyard is of special importance for two reasons. The first shots—other than those in William Street referred to in paragraphs 35 to 38—were fired here. Their sound must have caused other soldiers to believe that Support Company was under attack and made them more ready than they would otherwise have been to identify gunmen amongst the crowd. Secondly, the shooting by the Mortar Platoon in the courtyard was one of the incidents invoked by those who have accused the Army of firing indiscriminately on the backs of a fleeing crowd.

Para 49. I have heard a great deal of evidence from civilians, including pressmen, who were in the crowd in the courtyard, almost all to the effect that the troops did not come under attack but opened fire without provocation. The Army case is that as soon as they began to make arrests they themselves came under fire and their own shooting consisted of aimed shots at gunmen and bomb throwers who were attacking them. This issue, sometimes referred to as "Who fired first?", is probably the most important single issue which I have been required to determine.

155. Having thus established the contending version of events in the courtyard, Lord Widgery then presented in paragraph 50 "a representative sample" of six civilian versions in summary form of what they witnessed. In themselves, these stand in startling contrast to the narrative offered earlier by Lord Widgery (paragraphs 41-45). He then offers evidence from the Army side, eight examples in all. Before considering them in detail, it is worth recalling Prof. Walsh's comment that the overall account provided by the soldiers lacks credibility. Prof. Walsh has identified a whole catalogue of discrepancies and alterations in the statements offered by the soldiers which further undermine the reliability of the statements offered by the soldiers to the Tribunal - statements, it should be remembered, by those implicated in the deaths of unarmed civilians. None of these alterations and discrepancies - which had the effect of making their statements safe from possible prosecution and aligning them to one another - were revealed in the course of the Inquiry or to the Counsel for the next of kin.

### The Widgery Report and the 'New' Material

156. The soldiers alleged that they came under sustained gun and bomb attack. Yet these supposed IRA attacks did not inflict casualties on the civilians milling about. Nor were civilians or journalists aware of the activities of these gunmen and bombers; they neither saw nor heard them. Only soldiers were apparently able to detect them though they, like the civilians and journalists, were able to remain completely immune from any injury. Despite the alleged intensity of hostile fire, the soldiers continued to operate in the open and to advance. None of the accounts given by the soldiers were supported by non-military witnesses. No evidence corroborating their claims of hitting gunmen or bombers was discovered. The dead and wounded did not match the soldiers' versions of whom they shot at and where. The only reasonable conclusion to be drawn from all of this is that the accounts provided by the soldiers were fiction.

157. It might also be noted that by presenting two sets of statements as if they were equally valid and representing equally valuable versions of the same events is not only clearly unreal given the diametrically opposed descriptions offered, but is now revealed by the new material to be inherently unbalanced since one group was demonstrably unreliable. It is the implicated group which is revealed as having changed and sought to match their versions. This whole exercise, as presented by Lord Widgery, is now shown to have been based on a fundamentally unsound premise that the soldiers were "telling the truth as they saw it". It appears that the Tribunal was well aware that this was the case but concealed it from the public and the Counsel for the next of kin. That the Tribunal never revealed this to the Counsel for the next of kin completely undermined the validity of the cross-examination process. The revelations provided by the archive material and Prof. Walsh's analysis of it means that, on this basis alone, the Widgery Report stands fundamentally flawed. Moreover, this portion of the Report graphically illustrates the failure of Lord Widgery to invoke ballistic, forensic or medical evidence to determine the veracity of the contending accounts.

(i) Major 236....said that as he and his driver dismounted a burst of about 15 rounds of low velocity fire came towards them from the direction of Rossville Flats....He saw seven or eight members of the Mortar Platoon firing aimed shots towards the Flats but he could not see what they were firing at. He said that these soldiers were under fire.

158. There is no convincing and clear independent, non-military corroboration of this claim. The statements of the civilian eyewitnesses are very consistent on the point that no civilian gunfire as described by Major 236 took place.

(ii) Lieutenant N.... moved towards Chamberlain Street where he was faced by a hostile crowd and fired a total of three shots above their heads in order to disperse them....He then fired one further round at a man whom he thought was throwing a nail bomb in the direction of Sergeant O's vehicle.

### The Widgery Report and the 'New' Material

159. Prof. Walsh makes a number of points in regard to these "warning shots", particularly the failure by the Tribunal to consider whether Lt. N was justified in firing shots in the first place. Lord Widgery simply did not consider Lt.N's claim to have wounded a nail bomber since he had decided not to examine all of the wounded cases. Prof. Walsh has also uncovered from the archives that Lt. N changed the sequence of his shots in the version offered to the Tribunal to that initially given to the Military Police and made another change to align his version with the facts or with statements by other soldiers. These discrepancies were not revealed in the course of the Inquiry and were not referred to by Lord Widgery, despite their obvious significance.

(iii) Sergeant O....said that he and his men began to make arrests but were met with fire from the Rossville Flats. He thought that the fire came from four or five sources and possibly included some high velocity weapons. He saw the strike of bullets four or five metres from one of the members of his Platoon. He and his men returned to his APC to secure their prisoners and then spread out in firing positions to engage those who had fired upon them. Sergeant O fired three rounds at a man firing a pistol from behind a car parked in the courtyard. The man fell and was carried away. He fired a further three rounds at a man standing at first floor level on the cat-walk connecting Blocks 2 and 3, who was firing a fairly short weapon like an M1 carbine. The flashes at the muzzle were visible. Sergeant O caught a glimpse of Soldier S firing at a man with a similar weapon but his view was obscured by people "milling about". The Sergeant returned to his vehicle, but later fired two more rounds at a man whom he said was firing an M1 carbine from an alleyway between Blocks 2 and 3. He later saw Soldier T splashed with acid and told him that if further acid bombs were thrown he should return fire. He heard Soldier T fire two rounds and saw another acid bomb which had fallen. Sergeant O described the firing from the Flats as the most intense that he had seen in Northern Ireland in such a short space of time.

160. Lord Widgery himself dismissed soldier O's account of the intensity of hostile fire. Prof. Walsh has uncovered six major discrepancies between his evidence to the Tribunal and his original statement, including in regard to the intensity of fire, the number of shots he fired, whether he saw the body of the gunman being dragged away and the number of acid bombs he claimed to have seen thrown.

(iv) Private Q, after dismounting from his vehicle, was being stoned and so took cover at the end of Block 1 of the Rossville Flats. There he heard four or five low velocity shots, that is to say shots fired by someone other than the Army, though he could not say from what direction. Shortly afterwards he saw a man throwing nail bombs, two of which simply rolled away whilst another one exploded near to the houses backing on to Chamberlain Street. He shot at and hit the man as he was in the act of throwing another nail bomb. That bomb did not explode and the man's body was dragged away.

### The Widgery Report and the 'New' Material

161. Prof. Walsh identifies two major discrepancies arising from soldier Q's original statement: he changes the direction in which the nail bombs were thrown (Walsh speculates because the original target as claimed would have been beyond range) and the number thrown (from one to several).

(v) Private R heard one or two explosions like small bombs from the back of Rossville Flats. He also heard firing of high and low calibre weapons. He noticed a man about 30 yards along the eastern side of Block 1, who made as if to throw a smoking object, whereupon Private R fired at him. He thought he hit him high up on the shoulder, but was not certain what happened to the man because he was at that moment himself struck on the leg by an acid bomb thrown from an upper window in the Flats. A few moments later R saw a hand firing a pistol from the alleyway between Blocks 2 and 3. R fired three times, but did not know whether he made a hit.

162. Prof. Walsh identifies five substantial discrepancies between R's original statement and his account to the Treasury Solicitors and the Inquiry, including differences in his version of the actions of soldiers O and T.

(vi) Private S said that he came under fire as soon as he dismounted from his vehicle. The fire was fairly rapid single shots, from the area of the Rossville Flats. He dodged across to the back of one of the houses in Chamberlain Street, from which position he saw a hail of bottles coming down from the Flats onto one of the armoured vehicles and the soldiers around it. He fired a total of 12 shots at a gunman or gunmen who appeared, or reappeared, in front of the alleyway between Blocks 1 and 2 of the Flats. The gunman was firing what he thought was an M1 carbine. He thought that he scored two hits.

163. Prof. Walsh identifies a series of major discrepancies and alterations in the various statements made by soldier S. While all of them are significant, the most striking is the fact that in his original statement he made no mention of coming under fire immediately upon debussing. Also in his original statement, soldier S claimed that the crowd opened to reveal a gunman and closed when he returned fire. This choreographed ballet between the crowd, the gunman and the soldier, the original statement claimed, repeated itself four times. This surreal and unbelievable image was not repeated in evidence.

(vii) Private T heard a burst of fire, possibly from a semi-automatic rifle being fired very quickly, about 30 to 45 seconds after dismounting from his vehicle. It came from somewhere inside the area of the Rossville Flats. He was splashed on the legs by acid from an acid bomb and noticed a person throwing acid bombs about three storeys up in the Flats. On the orders of his Sergeant he fired two rounds at the acid bomb thrower. He thought that he did not score a hit.

### The Widgery Report and the 'New' Material

164. Prof. Walsh reveals that soldier T, contrary to his evidence to the Inquiry, did not claim to have come under fire when he debussed in his original statement. He also changed the moment he fired at the alleged acid bomber from "before" to "after" the second acid bomb was thrown.

(viii) Lance Corporal V heard two explosions, not baton rounds or rifle fire, before his vehicle stopped. As soon as he jumped out he heard rifle fire and saw several shots spurting into the ground to his right. He thought that this fire was coming from the alleyway between Blocks 1 and 2 of the Rossville Flats. He saw a crowd of about 100 towards the end of Chamberlain Street who were throwing stones and bricks. Corporal V moved further forward and shot at and hit a man about 50 or 60 yards away from him in the act of throwing a bottle with a fuse attached to it.

165. Prof. Walsh identifies four significant differences between his original statement and the evidence he offered subsequently. The key difference concerns when he fired at the alleged nail bomber. In his original statement, he claimed to have fired after the bomb had landed and failed to explode. He changed this to firing when the nail bomber was about to throw. As Prof. Walsh notes, on the basis of the original version, "there are grounds for charging V with murder or attempted murder depending on whether this target was killed or not." This becomes moot because, as Walsh states, "the circumstances of the shooting and the description of the victim as given by V could not be matched up with any of the casualties." As Walsh concludes, "it would be difficult to place much trust in V's evidence."

Para 52. A number of soldiers other than those of 1 Para gave evidence about the opening of fire....Captain 028, a Royal Artillery officer attached to 1 Para as a Press Officer saw the leading vehicle struck by a round before it came to a halt and saw a man open fire with a sub-machine gun from the barricade as the soldiers jumped out of their vehicles.....Lieutenant 227 of the Royal Artillery, who was in command of an observation post on the City Walls, heard two bursts of automatic fire from the Glenfada Park area after the arrest operation had begun and before he had heard any other sort of ball ammunition.....Gunner 030, who was in a slightly different position on the City Walls, saw a youth fire five or six shots with a pistol....This was before 030 heard any fire from the Paras. Later on he heard a burst of automatic fire and saw a man with a machine gun running in Glenfada Park.

Para 53. There was also a considerable body of civilian evidence about the presence of gunmen in the Bogside that afternoon, including some to the effect that they were the first to open fire. Father Daly saw a man armed with a pistol fire two or three shots at the soldiers from the south end of Chamberlain Street..... Mr Phillips, Mr Seymour, Mr Wilkinson and Mr Hammond, members of an Independent Television News team, who also went through the William Street barrier behind the Paras, all heard machine gun fire as the soldiers went across the open space. They also heard single shots but were not unanimous as to whether or not the automatic fire came first. It has been established that the troops did not use automatic weapons. So though the ITN men were not able to throw much light on the question of who fired first, their evidence did add considerable weight to the probability that the soldiers were fired on very soon after getting out of their vehicles.....

### The Widgery Report and the 'New' Material

166. In claiming that civilian gunmen were present and active, Lord Widgery failed to make convincing connections between those claims and the actions of the individual soldiers who killed or wounded 27 civilians that day. The eyewitness statements provide clear and consistent accounts that 1 Para were the first to open fire and that they were not met with any sustained or significant return fire. As Prof. Dash makes clear from his study of the testimony, three officers in the midst of this supposed hostile fire did not claim to have encountered heavy civilian fire, including Lt. Col. Wilford as he walked among his men.

167. That is not to say that a low velocity weapon was not fired in the course of the afternoon. However, it cannot be ascertained definitively if that was the case or who was responsible. For example, civilian eyewitness John Gorman, who had served with the Enniskillen Fusiliers for nine years, had testified at the Tribunal and stated categorically that the British Army scout car's Browning machine gun opened fire. He had made this point in his statement to the NICRA/NCCL saying that "the whippet car opened fire - this was automatic fire from a Browning machine gun." According to Lord Widgery, Support Company "was equipped that day with a Browning machine gun on a Ferret scout car." But he goes on to assert that "no Browning or submachine gun ammunition had been used." In any event, if there was any civilian gunfire, it did not result in one single injury to a member of the security forces.

Para 54. To those who seek to apportion responsibility for the events of 30 January the question "Who fired first?" is vital. I am entirely satisfied that the first firing in the courtyard was directed at the soldiers. Such a conclusion is not reached by counting heads or by selecting one particular witness as truthful in preference to another. It is a conclusion gradually built up over many days of listening to evidence and watching the demeanour of witnesses under cross-examination .... Notwithstanding the opinion of Sergeant O I do not think that the initial firing from the Flats was particularly heavy and much of it may have been ill-directed fire from pistols and like weapons. The soldiers' response was immediate and members of the crowd running away in fear at the soldiers' presence understandably might fail to appreciate that the initial bursts had come from the direction of the Flats. The photographs already referred to in paragraph 47 confirm that the soldiers' initial action was to make arrests and there was no reason why they should have suddenly desisted and begun to shoot unless they had come under fire themselves. If the soldiers are wrong they were parties in a lying conspiracy which must have come to light in the rigorous cross-examination to which they were subjected.

168. The new material is particularly relevant on two counts in this instance. Firstly, in helping to demonstrate that the soldiers were in fact the first to open fire, it undermines completely Lord Widgery's assertion that without hostile civilian fire there was no reason for 1 Para to open fire. As McMahon points out, there is an inherent logical contradiction in Lord Widgery's assertions here; since one possible accusation against the soldiers was that they acted unreasonably, it is nonsense to argue that they did not open fire because it would have been unreasonable to do so. This highlights Lord Widgery's failure to determine why in fact the Paras opened fire without justification. Only further material from official sources can throw light on the extraordinary and as yet inexplicable behaviour of the soldiers.

### The Widgery Report and the 'New' Material

169. Secondly, the new material, in particular the work of Prof. Walsh, demonstrates that the soldiers, in being "wrong" as Lord Widgery puts it, were in fact lying. Most damning of all, the Widgery Tribunal was aware that inconsistencies and discrepancies existed in the soldiers' statements and concealed this fully from the Counsel for the next of kin. In doing so, the soldiers and the Tribunal deliberately undermined the cross-examination process and made it impossible for the Counsel for the next of kin to establish the pattern of alterations made by the soldiers which have now been revealed by Prof. Walsh. Had it been possible to establish this pattern, Lord Widgery would have had considerable difficulty in judging the soldiers to be credible witnesses and, consequently, would have found it difficult to accept their version of events.

170. The new material therefore reveals that the Widgery Tribunal accepted accounts known to it to be unreliable of what happened in the courtyard of Rossville Flats. Lord Widgery's exoneration of the soldiers stands therefore as wholly and completely unwarranted. Had he chosen to accept the version offered by the civilian eyewitnesses, he would have had little option but to determine that the deaths and injuries brought about by the deliberate acts of the soldiers were unprovoked and wholly unjustified.

171. Since the cross-examination process had been undermined, it was unlikely that "a lying conspiracy" would have been uncovered. Moreover, as McMahon points out, it was not logical to suggest that if the soldiers were "wrong", they would have had to have been parties to conspiracy. McMahon writes "according to Lord Widgery the civilians were wrong, but he makes no attempt to claim either that they were in a conspiracy or that such a conspiracy must have come to light in the course of cross-examination". He concludes on this point that "from a logical point of view the criterion of truth is arbitrarily selected, is applied only to one set of evidence, and in no circumstances does it produce the conclusion attempted."

(c) The Action in Rossville Street

(d)

Para 55. When the vehicle convoy halted in Rossville Street the Anti-Tank Platoon and one half of the Composite Platoon deployed to their right in the vicinity of the flats known as Kells Walk..... a considerable number of rounds was fired from Kells Walk in the direction of the barricade, at which at least four of the fatal casualties occurred.

Para 56. It will be remembered that when the vehicles entered Rossville Street a densely packed crowd of perhaps 500 people was already assembled round the speakers' platform at Free Derry Corner and that the arrival of the soldiers caused some of the crowd on the waste ground also to run towards Free Derry Corner.

Para 57. ...Perhaps the most ugly of all the allegations made against the Army is that the soldiers at Kells Walk fired indiscriminately on a large and panic-stricken crowd which was seeking to escape over the barricade. .... Mr Chapman... maintained ..... that the Army fired indiscriminately upon the backs of that number of people who were scrambling over the barricade in an effort to escape and that no firearms or bombs were being used against the soldiers at that time.

### The Widgery Report and the 'New' Material

Para 58. Mr Robert Campbell, the Assistant Chief Constable of the Renfrew and Bute Constabulary, who was observing the scene from the City Wall, gave a very different account of events at the barricade..... Father O'Keefe ..... gave a version of this incident which supported Mr Campbell rather than Mr Chapman.....Further, the pathologist's evidence about the four young men who were casualties at the barricade, namely Kelly, Young, Nash and McDaid, was that they were not shot from behind.

172. The deaths of eight individuals occurred in Rossville Street close to the barricade. Lord Widgery devoted only four paragraphs to describing the scene there. Yet the bulk of the texts of these paragraphs were devoted to a consideration of the accounts given by Chapman, O'Keefe and Campbell and what they said about the nature of the crowd at the barricade. Campbell, by Lord Widgery's own admission, could not see the entry of 1 Para and could only see part of the Rossville Street barricade. Moreover, he only claimed to have heard low velocity shots. There was no attempt, as there was in dealing with the Rossville Flats courtyard, to provide a narrative of the movements, intentions, beliefs and actions of the soldiers. The new material reinforces the fact that there was considerable evidence available to provide a detailed account of how so many met their end here. This was, after all, the remit of the Inquiry. Yet inexplicably, Lord Widgery failed to make use of that evidence. Its emergence, or rather re-emergence, now reveals the appalling inadequacy of Widgery's treatment of the events in Rossville Street.

173. It should also be noted that Lord Widgery's failure to consider the possibility that shots were fired from the vicinity of Derry Walls was not only an omission but caused him to misrepresent the significance of the pathologist's evidence that Kelly, Young, Nash and McDaid were not shot from behind i.e. not by the soldiers in Rossville Street. On this basis, Lord Widgery was satisfied that the soldiers did not fire on the backs of a fleeing crowd. Yet it is clear that they did so in other cases, such as that of Kevin McElhinney and Paddy Doherty. He is implying that those shot from the front were facing the soldiers toward Kells Walk and were throwing missiles. The new material indicates that they - or certainly three of them - were facing away from the soldiers advancing toward them and were in fact moving in the general direction of Free Derry Corner when they were hit by British Army snipers from the vicinity of Derry Walls.

Para. 59. I am entirely satisfied that when the soldiers first fired at the barricade they did not do so on the backs of a fleeing crowd but at a time when some 30 people, many of whom were young men who were or had been throwing missiles, were standing in the vicinity of the barricade.

174. The Mullan thesis that at least three of those killed on the barricade were hit by British Army fire from elevated positions in the vicinity of Derry Walls is firmly grounded in the new material, including the civilian eyewitness statements, the expert opinion of Robert Breglio, the conclusions of Dr. Raymond McClean, the judgement of Dr. Hugh Thomas and the statements made by a number of individuals (one claiming to have been a British soldier on duty on the Walls that day in the course of reports broadcast by Channel Four). In light of this, Lord Widgery's views on the circumstances of how Nash, Young and McDaid met their end must now be set aside.

## The Widgery Report and the 'New' Material

### Responsibility

Para 61. Having dealt with the allegations of a general character made against the conduct of 1 Para on 30 January I turn to consider the conduct of the individual soldiers who fired and the circumstances in which the individual civilians were killed.

Para 62. The starting point of this part of the Inquiry is that 108 rounds of 7.62 mm ammunition were expended by members of Support Company. The Browning gun on the Company Commander's scout car was not fired nor were the three sub-machine guns. No shots were fired by the other Companies of 1 Para. I have no means of deciding which soldiers fired or how many rounds each fired except the evidence of the soldiers themselves..... The Army case is that each of these shots was an aimed shot fired at a civilian holding or using a bomb or firearm. On the other side it was argued that none of the deceased was using a bomb or firearm and that the soldiers fired without justification and either deliberately or recklessly.

175. The new material, particularly the research undertaken by Prof. Walsh and the Para AA statement in addition to the eyewitness statements on the intensity of fire, render Lord Widgery's conclusions on the use of ammunition not only unreliable but misleading.

Para. 63. To solve this conflict [whether the victims were using weapons and whether the soldiers fired with justification] it is necessary to identify the particular shot which killed each deceased and the soldier who fired it. It is then necessary to consider the justification put forward by the soldier for firing and whether the deceased was in fact using a firearm or bomb. It has proved impossible to reach conclusions with this degree of particularity.

176. Lord Widgery omitted an obvious point that the circumstances in which the victims were killed or wounded could have been clarified by testing the reliability of eyewitnesses, by determining the degree of corroboration and by fully exploring the import of the evidence presented by ballistics, medical and forensic experts. The new material magnifies Lord Widgery's failure to have done so despite the availability of evidence and witnesses, some of whom claimed to have been able to identify individual soldiers.

#### a. Were the Deceased Carrying Firearms or Bombs?

Para 65. ...Although a number of soldiers spoke of actually seeing firearms or bombs in the hands of civilians none was recovered by the Army. None of the many photographs shows a civilian holding an object that can with certainty be identified as a firearm or bomb. No casualties were suffered by the soldiers from firearms or gelignite bombs. In relation to every one of the deceased there were eye witnesses who said that they saw no bomb or firearm in his hands.

177. The new material strongly supports and corroborates the points made here. It might be added that none of the wounded were identified as having been armed, nor were any of the dozens arrested on the day.

Para 68. According to the expert evidence of Dr Martin of the Northern Ireland Department of Industrial and Forensic Science and Professor Keith Simpson a concentration of minute particles on the hand creates a "strong suspicion" that the subject has been firing.

### The Widgery Report and the 'New' Material

178. Prof. Dash very effectively repudiated the reliability of Dr. Martin's forensic evidence. Any inferences drawn from it can be discounted. The eyewitness statements about the treatment of the dead help to substantiate the concerns expressed by Prof. Dash about accidental or deliberate contamination by the authorities.

#### The Deceased Considered Individually

##### John Francis Duddy

Para 69. Age 17. He was probably the first fatal casualty and fell in the courtyard of Rossville Flats. (Mr Grimaldi's photographs EP 26/12, 13 and 14.) As already recounted (paragraph 50(l)) he was seen to fall by Father Daly. Mrs Bonnor and Mrs Duffy both spoke of seeing a soldier fire at him. According to Mrs Bonnor he was shot in the back. In fact the bullet entered his right shoulder and travelled through his body from right to left. As he ran he turned from time to time to watch the soldiers. This fits in with Father Daly having overtaken him while running and explains the entry wound being in his side. No shot described by a soldier precisely fits Duddy's case. The nearest is one described by Soldier V who spoke of firing at a man in a white shirt in the act of throwing a petrol bomb, but Duddy was wearing a red shirt and there is no evidence of his having a bomb. His reaction to the paraffin test was negative. I accept that Duddy was not carrying a bomb or firearm. The probable explanation of his death is that he was hit by a bullet intended for someone else.

179. Four civilians testified to the Widgery Tribunal that they had witnessed the killing of John "Jackie" Duddy - Father Daly, Mrs. Bonnor, Mrs. Duffy and Mr. Tucker. Mr. Tucker, an ex-serviceman, was not permitted to testify on the details of what he saw because Lord Widgery took the view that he had already heard enough about the incident from the other three witnesses. In his finding, Lord Widgery in effect rationalised the account of Fr. Daly by reference to the last movements of Jackie Duddy. He singularly failed to do this with regard to Mrs Duffy's, Mr Tucker's and Mrs Bonnor's evidence, despite drawing special attention to the latter's statement. Mrs Bonnor perceived that Duddy was shot in the back but Lord Widgery, having made reference to this, should have set her account in the proper context - for example, that she witnessed the shooting from the second floor of Rossville Flats and that the crowd which included Duddy was running towards those flats at the moment of the shooting i.e. he was not facing the soldiers. Even had Duddy been facing the soldiers, the point would have been moot since he was unarmed. Nor did Lord Widgery make any reference to Mrs Bonnor's claim that the soldier who shot Duddy fired from the waist. It is not possible to fire carefully aimed shots, as all the soldiers had claimed, from the waist. Such casual use of live ammunition, attested to by many witnesses, would have been singularly incompatible with Lord Widgery's endorsement of the testimony of the soldiers.

### The Widgery Report and the 'New' Material

180. The following accounts regarding what happened in the Rossville Flats courtyard, specifically how Jackie Duddy was shot dead, are drawn from those assembled by the Government in 1972;

- ... Two Saracens came rushing up Rossville St. and into the car park and the soldiers jumped out. One of them got down and started shooting from beside the Saracen... One boy (about 16) in the middle of the car park was hit in the back while running away and fell down. He wasn't carrying anything....

- ... Two Saracens turned into the car park of the Flats from Rossville St... The Saracens stopped... One soldier ran to the front nearside wheel and took up a firing position. Another ran to the wall at the backs of the Chamberlain St. houses and started pushing people with his rifle ... The soldier at the nearside front wheel of the Saracen started firing and I saw a man fall to the ground... the shot which that soldier fired was the first shot I heard that day. Shooting continued and I saw two other men shot in the car park. The first of these was roughly in the middle of the car park with his hands raised in the air. He appeared to be shot in the leg as he suddenly grasped his right leg with his right arm and hopped into the top corner of the car park where the kiddies' play area is... At no time did I see any of the above-mentioned men with weapons of any sort in their hands.... At no time did I see or hear nail bombs or petrol bombs being used, nor did I see any gunmen in or near the Flats.

- ... No shooting was coming from the flats. I was standing beside them and could not have failed to hear it. No petrol or nail bombs were thrown or again I could not have failed to hear them...

- ... The three armoured cars came across Rossville Street and two of them came to a halt at the gable end of the Rossville Street flats (William Street end). The third car drove past these two and entered the car park driving straight towards the people who were running in every direction trying to escape. One man was knocked down by this car. As the man was attempting to rise, a soldier ran from the back of the car which was now stationary and raised his rifle in an attempt to strike the man with the rifle butt. A youth dashed forward and grabbed the soldier around the neck and held him until the injured man escaped. The youth ran off into the crowd. The soldier raised his rifle, took deliberate aim and fired. The soldier, I thought, aimed between the Rossville Street block and Joseph Place. The crowd fell back and I saw a man lying on the ground, about four or five yards from the spot where the soldier was standing after having fired the shot. I had not seen anyone fire at the soldier nor had I heard any shooting. There were no explosions. Several people came forward to help the man lying on the ground and a youth walked towards the armoured car with his hands raised above his head. A soldier came round from behind the car, raised his rifle and shot the young man, who turned and limped [off] helped away holding his leg....

### The Widgery Report and the 'New' Material

- .... I was in Chamberlain Street..... As I entered the back of the High Flats in Rossville Street, a Saracen stopped and two soldiers leaped from it. One got down on one knee and fired at least six rounds into the fleeing crowd. The other one fired at least eight rounds. I passed the body of one dead or seriously injured youth lying in the middle of the tarmac. I saw a youth whom I have since learned to be named Michael Bridge show himself in front of the troops and shout "you killed my mate now shoot me". About a second later when I looked from my hiding place I saw Michael fall, shot and injured. At no time did I see anyone fire at the troops... and I as an ex-service man would not have believed it if I had not seen it with my own eyes.

181. These statements are representative of the many eyewitnesses available at the time. They are remarkably consistent, including with statements published by Mullan. There were no nail or petrol bombs, much less hostile civilian fire. The soldiers immediately assumed firing positions. Duddy and Bridge were unarmed. The statements provide a clear foundation for attempting to identify the two soldiers (one at the nearside front wheel of the lead Saracen) involved in the death of Jackie Duddy and the wounding of Michael Bridge. Bridge, since he was only wounded, was never called to give evidence despite the incontrovertible fact, evidenced by his wound, that he was both a victim and a witness. These accounts corroborate the other eyewitness statements as published and provide clear and credible grounds for believing that Jackie Duddy was hit and killed without justification while fleeing with a deliberate shot and that Bridge was deliberately shot while protesting the shooting of Duddy.

182. Lord Widgery's reference to soldier V's description of his target as the "nearest" to Duddy was plainly ludicrous, even on first sight: a white shirt is not a red shirt. Further, Prof. Walsh has identified substantive changes to the accounts originally given by soldier V which render unreliable his testimony and which, if they had not been made, might have left V open to criminal charges. Clearly, the soldier who aimed at and shot Duddy had concealed this act. So too did the soldier who shot Bridge as he protested, hands aloft. Had Lord Widgery stated this obvious point in regard to every incident involving a civilian death or wounding (all of which failed to be corroborated in any account by the soldiers), it would have made a mockery of the well honed, but what now seems certain, fanciful accounts which were presented to the Inquiry by the implicated soldiers. Lord Widgery's conclusion that the shot which killed Duddy was intended for someone else was perverse and stands comprehensively contradicted.

### The Widgery Report and the 'New' Material

Patrick Joseph Doherty

Para 70. Age 31. His body was found in the area at the rear of No 2 Block of Rossville Flats between that Block and Joseph Place. His last moments are depicted in a remarkable series of photographs taken by Mr Peress which show him with a handkerchief over the lower part of his face crawling with others near the alleyway which separates No 2 Block from No 3. (EP 25/7, 8, 9, 11 and 12.) He was certainly hit from behind whilst crawling or crouching because the bullet entered his buttock and proceeded through his body almost parallel to the spine. There is some doubt as to whether he was shot when in the alleyway or at the point where his body was found. On the whole I prefer the latter conclusion. If this is so the probability is that he was shot by Soldier F, who spoke of hearing pistol shots and seeing a crouching man firing a pistol from the position where Doherty's body was found. Soldier F said that he fired as the man turned away, which would account for an entry wound in the buttock. Doherty's reaction to the paraffin test was negative. In the light of all the evidence I conclude that he was not carrying a weapon. If Soldier F shot Doherty in the belief that he had a pistol that belief was mistaken.

183. The following are two extracts from the statements collated by the Government in 1972 regarding the death of Patrick Doherty.

- ... I could see into Fahan Street car park, the maisonettes and Joseph Place.... a man started to crawl from right beneath my window across to the alleyway. He reached halfway, when a shot rang out, his right leg kicked out and he lay still. This man I now know to be Patrick Doherty.... At no time did I see or hear nail bombs or petrol bombs being used, nor did I see any gunmen in or near the Flats.

- I saw three people shot - one of them later died - his name was Patrick Doherty. The first man I saw shot was in the courtyard of the flats - he was unarmed and was shot in the leg... The second person I saw being shot was Patrick Doherty. He was unarmed and was crawling across the courtyard in front of the flats towards the alleyway at Joseph Place. He was two-thirds of the way across when he was shot on the right side of the chest. The soldier who shot him was positioned at the entrance to Glenfada Park. At the time Mr. Doherty was shot,.. the rioting had stopped and the people had dispersed.... a man... went to his aid. He was in the process of dragging him from the line of fire when he was shot in the leg....

### The Widgery Report and the 'New' Material

184. Charles McLaughlin's account as published by Mullan is particularly compelling:

- I looked out of my window. I saw a man lying on his stomach. He was lying parallel with the front of the flats. He was facing Fahan Street. He started to crawl on his stomach heading for the alley behind Joseph Place. He was trailing his left leg. I shouted to him not to go across or they would shoot him. He kept moving and I shouted again, 'For God's sake don't go across or they will shoot you.' At that stage they shot at him. The bullet passed over him because I saw chippings fly off the wall where the bullet struck. They fired a second shot at him. The bullet struck him high up on the right hand side of his body. He put his hand to his side and said in a loud voice, 'They shot me again.' His head fell to the ground. When a number of men carried him to the ambulance past my window, it was then I recognised him as a workmate named Paddy Doherty.

185. There is a compelling concurrence of views as to how Patrick Doherty met his end among these eyewitnesses. There are no references to any pistol shots having been heard or of a crouching man firing a pistol from the position where Doherty's body was found. One eyewitness states specifically that at the time Doherty was shot, the rioting had stopped and the people had dispersed and that Doherty had been crawling, not crouching. This description of the angle of Doherty's body when he was shot precisely matches the medical evidence. According to Dr. McClean, the axis of the exit wound on the left side of the chest, the bullet having entered the buttock, was "downwards and forward". Doherty could not have been anywhere near a standing or crouching position. Photographic evidence also bears this out.

186. Eyewitnesses claim that at least two shots were fired at Doherty; the first one missed him. Yet Lord Widgery refers only to the bullet that killed Doherty. The eyewitness evidence suggests that, having regard to all the circumstances, it was not possible for Doherty to have been the same person described by soldier F. This soldier was in fact making an unfounded claim about Doherty at the time he was shot. Furthermore, soldier F claimed that he fired at the man as he turned away. The logic - or lack of it - of this statement is that the victim managed to turn at a speed greater than that of the bullet which killed him. No eyewitness statement supports the claim that Doherty turned away and in fact state the opposite; Charles McLaughlin describes Mr. Doherty's last moments in terms such as 'lying parallel with the front of the flats'... 'started to crawl'... 'kept moving'.. 'shot at' [twice].

### The Widgery Report and the 'New' Material

187. According to Prof. Walsh, soldier F's credibility is severely undermined by the significant changes ("bizarre contradictions" in Walsh's words) in his evidence from one statement to the next. Most damning of all, soldier F "admitted in his evidence....that he forgot to mention having shot dead the alleged gunman between Rossville Flats and Joseph Place." In addition to the evident contradictions surrounding it, there was clearly something profoundly unreliable about F's testimony. Lord Widgery's reference to F's claims, without any acknowledgement of this in his overall treatment of Doherty's killing, was highly partisan and unbalanced and gave an inaccurate, misleading and unjust account of Patrick Doherty's death.

Hugh Pius Gilmore

Para 71. Age 17. Gilmore died near the telephone box which stands south of Rossville Flats and near the alleyway separating Blocks 1 and 2. According to Miss Richmond he was one of a crowd of 30 to 50 people who ran away down Rossville Street when the soldiers appeared. She described his being hit just before he reached the barricade and told how she helped him to run on across the barricade towards the point where he collapsed. A photograph of Gilmore by Mr Robert White (EP 23/9A), which according to Miss Richmond was taken after he was hit, shows no weapon in his hand. The track of the bullet is not consistent with Gilmore being shot from directly behind and I think it likely that the statement of Mr Sean McDermott is more accurate on this point than the evidence of Miss Richmond. Mr McDermott put Gilmore as standing on the barricade in Rossville Street when he was hit and in a position such that his front or side may have been presented to the soldiers.

Para 72. Gilmore was shot by one of the soldiers who fired from Kells Walk at the men at the barricade. It is impossible to identify the soldier. Gilmore's reaction to the paraffin test was negative. There is no evidence that he used a weapon.

188. The following are a selection of the accounts published by Mullan:

- I was at the corner of Rossville Street. I turned back towards Free Derry Corner at Rossville Street. The boy, Gilmore, was walking along the side of the flats at Rossville Street beside me. All of a sudden there was a lot of shooting... This shooting came from the Army because when I turned round there was a soldier on one knee. The boy Gilmore stumbled.... I helped to carry him to where the telephone box was.... The man McGuigan was there at this time. The young boy Gilmore had nothing in his hands...(Geraldine Richmond)

### The Widgery Report and the 'New' Material

- I witnessed the shooting of Hugh Gilmore and Bernard McGuigan. I was standing on the pavement outside the High Flats. I saw a boy walking alone across waste ground on the William St. side of the Flats. A soldier appeared on the corner of the Flats on the side nearest William Street. The soldier caught hold of the youth and beat him mercilessly with a riot stick or baton. At this moment, Hugh Gilmore emerged from the main door of the High Flats on Rossville Street. He moved past towards the mound of rubble which formed a barricade across Rossville Street. He got on top of the barricade... Hugh Gilmore jumped up clutching the bottom of his stomach shouting "I'm hit, I'm hit".... Francis Mellon and myself... assisted him around the corner of the Flats on the side nearest Free Derry Corner.... there was a narrow hole on the left side of his body and an exit on the right side from which his innards protruded... (Sean McDermott)

- Me and my mate were standing at the corner of flats opposite Glenfada Park. John [Hugh] Gilmore jumped into the air shouting "I've been hit".... I commenced to open his jerkin... The bullet had gone in on the right side just under the lung, I think.... I wiped the blood... All during this period there was shooting around us... (Frank Mellon)

189. These are supported by statements given to the Government in 1972:

- I was standing at the barricade at Rossville St. flats with a young lad who turned out to be Hugh Gilmore. We saw the soldiers coming in from William St. I heard one shot, then another shot and the boy said "Christ, I've been hit". He half ran back to the corner of Rossville St. Flats for cover. With some help we put him on his back. The blood was pouring out of his side.... some of us tried to get help by running across to an open door... We stayed in the house for about ten minutes and then we ran back to young Gilmore, who was lying dead...

- When the soldiers entered Rossville Street.... One of these soldiers ran towards a wall at the maisonettes opposite the High Flats - he aimed the rifle at a group of young boys who were standing on the Free Derry Corner side of a barricade of rubble which is directly outside the main doors of the High Flats...I saw one of these boys fall just as a soldier fired from his position at the maisonettes... Immediately I heard further shots...directed at the other boys at the barricade of rubble...

### The Widgery Report and the 'New' Material

190. Miss Richmond, who cradled the head of the dying Hugh Gilmore, believed that he had been shot from behind. He could however have been shot by soldiers in the car park to his left as he was running up Rossville Street (away from the soldiers) and just before he reached the flats, as Prof. Dash had speculated. Dash writes that "a shot fired at Gilmore by a paratrooper from this location would be consistent with Miss Richmond's statement that as they passed along the side of Block 1 of the Rossville Flats on Rossville Street, Gilmore cried out that he was hit." Yet Lord Widgery disregarded her version of Gilmore's killing and opted instead for the statement of Sean McDermott who was not called as a witness. Lord Widgery failed therefore to treat the two accounts in equally thorough and fair terms. Indeed Lord Widgery's use on this rare occasion of one the statements submitted by the NICRA/NCCL raises questions about the reasons why he did so.

191. Lord Widgery failed to explore fully and reach a definitive finding on the nature and medical importance of the wounds inflicted on Gilmore. According to Dr. McClean, the entry wounds were on the extensor surface of the left forearm and on the right side of the chest with the long axis of the wound being downward and forward, centred 14 cms below and 7 cms behind the right nipple. The exit wounds were on the flexor surface of the left forearm and 13 cms below the left nipple. In his post mortem report, Dr. McClean said the following:

- It has been suggested that the four wounds mentioned would be in direct line, if the left forearm were flexed at the elbow with the palm facing the lower abdomen. I would not agree with this supposition as the track of the bullet in the forearm is indicated as being from left to right, whereas the bullet track through the abdomen is indicated as travelling from right to left across the trunk.

192. This interpretation would significantly alter the view of how Gilmore was shot and killed. Dr. McClean disagrees with Lord Widgery's finding that the bullet which killed Gilmore entered the left elbow and passed horizontally through his body. He does not believe that the one bullet which exited Gilmore's left lower chest and created a gaping wound of 6cms x 5cms could then have entered the left forearm and created a circular wound there of just 7 mms in diameter. Dr. McClean is firmly convinced that Gilmore was in fact shot twice. On this basis, it may well be the case that two soldiers from different positions shot and hit Gilmore and that, therefore, the eyewitness accounts of McDermott and Richmond were in fact complementary rather than contradictory as implied by Lord Widgery. This possibility illustrates the significance of the failure to call on Dr. McClean and other important eyewitnesses such as Sean McDermott and Frank Mellon in this case.

193. Lord Widgery's finding that an unidentified soldier at Kells Walk shot dead the unarmed Hugh Gilmore means Gilmore had to be facing the soldiers (since this, in Lord Widgery's mind, amounted to justification). The only explanation for Lord Widgery's bizarre choice of whom to believe is that he was more intent on concluding that the unarmed Gilmore faced the soldiers when he was shot than on determining who was most likely to have fired the fatal shot. Again, Lord Widgery appeared to be content that facing rather than fleeing the soldiers was sufficient grounds to explain why the soldiers shot at the victims in Rossville Street.

### The Widgery Report and the 'New' Material

194. It is very clear from the eyewitness accounts, particularly that of Geraldine Richmond, supported by photographic evidence, that Hugh Gilmore was shot after Bernard McGuigan. The reasons why Lord Widgery chose to reverse that sequence remain a mystery.

Bernard McGuigan

Para 73. Age 41. This man was shot within a short distance of Gilmore, on the south side of No 2 Block of the Rossville Flats. According to Miss Richmond a wounded man was calling for help and Mr McGuigan, carrying a white handkerchief, deliberately left a position of cover to attend to him. She said that he was shot almost at once. Other civilian witnesses confirmed this evidence and photographs of McGuigan's body show the white handkerchief in question. (Mr Peress's EP 31/2 and 3 and EP 25/18.) Although there was some evidence that the shot came from Glenfada Park, which means that the soldier who fired might have been Soldier F, another possibility is that the shot came through the alleyway between Blocks 1 and 2. I cannot form any worthwhile conclusion on this point.

Para 74. Although the eye witnesses all denied that McGuigan had a weapon, the paraffin test disclosed lead deposits on the right palm and the web, back and palm of his left hand. The deposit on the right hand was in the form of a smear, those on the left hand were similar to the deposits produced by a firearm. The earlier photographs of McGuigan's body show his head uncovered but in a later one it is covered with a scarf. (Mr Grimaldi's EP 26/25.) The scarf showed a heavy deposit of lead, the distribution and density of which was consistent with the scarf having been used to wrap a revolver which had been fired several times. His widow was called to say that the scarf did not belong to him. I accept her evidence in concluding it is not possible to say that McGuigan was using or carrying a weapon at the time when he was shot. The paraffin test, however, constitutes ground for suspicion that he had been in close proximity to someone who had fired.

195. Geraldine Richmond gave very evocative and compelling accounts of how Barney McGuigan died. According to the proceedings of the Widgery Tribunal, she testified that after Gilmore was shot, she and some men were sheltering from the paratrooper shooting against a wall of Rossville Flats. They heard a wounded man in the direction of Joseph Place cry out: "I don't want to die [by] myself, I don't want to die [by] myself." She then testified:

- Mr. McGuigan then says, 'I can't stand this no longer. If I take a white handkerchief and go out they will not shoot me'. We tried to dissuade him from going out, but that man was determined to go and he took about four paces from the telephone box waving a white handkerchief and he got shot. I want to say that... Mr. McGuigan was only going to help see if he could find a man that was crying. That's all I want to say.

### The Widgery Report and the 'New' Material

196. Ms Richmond provided the following statement to the NICRA/NCCL which was published in Eyewitness Bloody Sunday:

- The boy Gilmore stumbled.... I helped to carry him to where the telephone box was.... The man McGuigan was there at this time. Another man was lying at Fahan Street steps. I could hear him squealing but nobody could get to him because of the shooting. Mr. McGuigan said that he was going to try to reach him because he didn't want him to die alone. He took two steps forward and was then shot in the head. The other young boy was now dead... The young boy Gilmore had nothing in his hands. Neither had Mr. McGuigan - he only went to help somebody else.

197. The following is Patrick Clarke's account as published in Eyewitness Bloody Sunday.

- I covered up the body of Barney McGuigan with my jacket, removed his shoes and straightened his legs from the crumpled position he was lying in... Another lady came with a second blanket. This I then used to completely cover the body of Mr. McGuigan....

198. Lord Widgery's finding that there were grounds for suspicion that McGuigan had been in close proximity to someone who had fired deliberately fogs the horror of this killing. This view is reinforced by Lord Widgery's acceptance - qualified though it may be - that McGuigan was not using or carrying a weapon at the time he was shot. In fact, McGuigan - an unarmed man, going to the assistance of an injured person - was shot dead while clearly waving a white handkerchief. It should be noted also that Lord Widgery accepted that it was a white handkerchief and not a scarf that Mr. McGuigan was waving when he was shot dead. That was the substance of the evidence before Lord Widgery. It is extraordinary therefore that Lord Widgery, in his finding on McGuigan's death, devoted around half of his finding to forensic evidence which was not centrally relevant to the actual killing. Bernard McGuigan was unarmed when shot and the scarf was merely put on his head when he was lying dead on the ground.

199. Lord Widgery accepted that the scarf was not put on the deceased's head until some time after he had been shot. Photographic evidence was invoked in that regard. Mr. McGuigan's wife testified that the scarf did not belong to him. Patrick Clarke gives an account of putting his jacket and a lady later placing a sheet over McGuigan's body. If Clarke and other witnesses had been called to testify, more information on the source of the scarf might have been forthcoming.

### The Widgery Report and the 'New' Material

200. Since the scarf was put on Mr. McGuigan's body some time after his death, it could not have contributed to the "ground for suspicion that he had been in close proximity to someone who had fired". At most, it may indicate that the person who put the scarf on Mr. McGuigan's head might have handled a firearm or had been in close proximity to somebody who had, though even this could have been disposed of by virtue of the weakness of the forensic tests. The new material tends to support the suspicion that McGuigan's hands may have been deliberately contaminated since the civilian eyewitness evidence, supported by photographic evidence, point clearly to the deceased, and those in close proximity to him, not having handled a firearm at any stage. Lord Widgery did not explore seriously, if at all, that possibility.

201. Lord Widgery's focus on the scarf exudes a sinister resonance when set against his failure to find on the medical possibility that Bernard McGuigan was shot dead by a dum-dum bullet. Dr. McClean noted in his report of the examination of McGuigan's body that there were 'several fragmented pieces of metal (about forty in number) throughout the interior of the skull space' and that there was 'gross pathological damage to the skull structure'. This medical evidence would tend to support Para AA's claim that dum-dums were used on the day.

202. While Lord Widgery, contrary to all the evidence presented to him, was prepared to besmirch the reputation of Barney McGuigan and those around him, he offered at the same time, not one word of judgement on the soldier who shot dead this man while waving a white handkerchief in the air. That Lord Widgery sought to call into question the integrity of McGuigan's act of selflessness compounded the unfairness and banality of the official account of how he died.

John Pius Young

Para 75. Age 17. This young man was one of three who were shot at the Rossville Street barricade by one of the cluster of 10 to 12 shots referred to by Mr Campbell (paragraph 58 above refers). (Mr Mailey's EP 23/4. Mr Mailey said that two men fell immediately after he took this photograph.) Young was undoubtedly associated with the youths who were throwing missiles at the soldiers from the barricade and the track of the bullet suggests that he was facing the soldiers at the time. Several soldiers, notably P, J, U, C, K, L and M all said that they fired from the Kells Walk area at men who were using firearms or throwing missiles from the barricade. It is not possible to identify the particular soldier who shot Young.

Para 76. The paraffin test disclosed lead particles on the web, back and palm of the left hand which were consistent with exposure to discharge gases from firearms. The body of Young, together with those of McDaid and Nash, was recovered from the barricade by soldiers of 1 Para and taken to hospital in an APC. It was contended at the hearing that the lead particles on Young's left hand might have been transferred from the hands of the soldiers who carried him or from the interior of the APC itself. Although these possibilities cannot be wholly excluded, the distribution of the particles seems to me to be more consistent with Young having discharged a firearm. When his case is considered in conjunction with those of Nash and McDaid and regard is had to the soldiers' evidence about civilians firing from the barricade a very strong suspicion is raised that one or more of Young, Nash and McDaid was using a firearm. No weapon was found but there was sufficient opportunity for this to be removed by others.

### The Widgery Report and the 'New' Material

203. The deaths of Young, Nash and McDaid have given rise to considerable controversy, particularly in light of Don Mullan's thesis that they died as a result of shots fired from an elevated position in the vicinity of Derry Walls. The point has been made elsewhere that on this ground alone, the Widgery Report is fundamentally flawed in not having considered this possibility. The following accounts from Eyewitness Bloody Sunday illustrate the strength of the eyewitness conviction that shooting did in fact come from the Walls.

- I glanced behind and saw Saracens coming into Rossville Street. Within seconds a volley of shots rang out positively coming from the army for even though at this stage I was running looking for cover I can say with all certainty that the direction of the shooting was from outside the Bogside, namely junction of Rossville Street and from Derry Walls. Until I got cover from a house inside the Bogside there were at least three or four series of these bursts of high velocity gunfire still coming positively from the directions I have already mentioned. (Brid Donaghy)

- One Saracen stopped at the waste ground and three or four soldiers jumped out and began to shoot recklessly into the unarmed fleeing crowd. I saw four boys fall to the ground and one of their bodies was dragged away by two of the soldiers. One of the soldiers actually aimed his rifle at me but suddenly changed his mind and fired instead at the crowd. I moved to Free Derry Corner where I had to lie flat on the ground as the soldiers fired from the city Walls. I then crept on my hands and knees to my aunt's house in St. Columb's Wells. (Teresa Cassidy)

- The soldiers were hitting people with the butts of rifles. I climbed over a roof of the outhouse of the flats. There was shooting on the far side coming from the Walls and Glenfada Park. I dived for cover and I saw a boy being shot at a barricade. There was already someone lying there. He seemed to be hit also as there was no movement from him. a bullet hit close by me coming from the direction of Glenfada Park or Columbcille Court. I saw two men crawling out, at the gap between the flats (where the shops are); one was shot. I helped lead a crowd of panicking people along the Walls. A priest pulled up in a red cross car. He was looking for injured people. He got out of the car. I told him to take cover. He had hardly done so when a bullet hit the far wall. It came from the Walls. We waited for ten minutes and then went away to safety. I helped to put about seven of the injured into cars. (Tony H.)

### The Widgery Report and the 'New' Material

- Just after this we saw men crawling along the small wall in front of the shops at Joseph Place. They were protecting themselves because the army were firing from the army posts on the Walls. We then saw a few men dragging a body along at the same place. We looked down on the ground, directly below, in front of the shops and we saw another body lying on the ground very white and very still. One of the men using the small wall as protection came back and tried to reach the man lying in front of the shops. He tried several times to reach him but was forced back because of the shots coming from the Walls. (Agnes McGuinness)

- Bernadette Devlin had just got up on the platform when we heard an awful lot of shooting which was definitely directed towards the platform on which the meeting was just about to start. Everybody fell flat on their faces and some ran towards the gable of a house. I was at this gable and I looked up and saw soldiers on top of [the] Walls with their guns pointed down at us. Another volley of shots rang out from the Walls on the crowd and a bullet hit a 2 foot high cement pillar beside me. We then realised that they were shooting indiscriminately from the Walls into the crowd and we ran towards St. Columb's Wells. The people who had been lying on their faces also got up and ran towards St. Columb's Wells. As they did so the army fired constantly into the crowd and I heard that some people had been hit. (S.B.)

- I turned round facing Fahan Street where I witnessed men carrying a body from the courtyard that I came out of. This boy was taken into the house at the end of Joseph Place opposite the shops. While I was watching this I heard several shots coming from my left, i.e. Rossville Street. Two bullets actually hit the pavement in front of me. I fell flat and lay for a few minutes. I then crawled along the front of Joseph Place to an entrance to the back of the maisonettes. The shooting became heavier as I took cover here with many others including women who were screaming. After a few moments I thought of getting out the back but then I realised that there was shooting from the Walls. (Thomas Ralph Dawe)

- My aunt shouted to me that she saw a rifle aimed in our direction from the Walls (Derry Walls). I had just time to shout a warning to the fellas to clear when they opened up from the Walls and fired at where they were but they had moved just in time, one may have been hit. (Carol McCafferty)

- ... three Saracen armoured cars rushed up Rossville Street. We all moved in behind the barricade - a small amount of rubble situated in front of Rossville Flats... the Paras opened fire. We ran in the direction of Glenfada Park. As we reached here, two young men fell behind the barricade... another youth who had sought shelter was calling on help to recover the two other bodies from behind the barricade. As he ran out, he was shot down by a volley of gunfire... (M.J.J.)

### The Widgery Report and the 'New' Material

204. The Breglio and McClean reports and the material offered in the Channel Four News broadcasts offer compelling evidence that supports the many eyewitness accounts of shooting from the Walls. The clear possibility that Young, Nash and McDaid died as a result of this fire was never properly considered in the course of the Inquiry and does not feature in the Widgery Report. This clearly represents a significant and fundamental flaw.

205. Lord Widgery asserted that there were grounds for "a strong suspicion that one or more of Young, Nash and McDaid was using a firearm." This ran counter to the three civilian eyewitnesses who testified at the Inquiry that no guns, petrol bombs or nail bombs were used by any people around the Rossville Street barricade. One of those who testified was Mr. James Chapman, a civil servant in the employ of the Army and previously a Warrant Officer in the Royal Regiment of Wales. He stated that the paratroopers opened fire without anybody at the barricade having fired at them or having thrown nail bombs. Another eyewitness, Mr. Ronald Wood, who was English born and had served twelve years in the Royal Navy, testified in similar terms. The eyewitness statements that are in the Government's possession bear out the accounts of Mr. Chapman and Mr. Wood. Only stones and similar debris were thrown.

206. Additionally, the reliability of the soldiers' evidence has been seriously undermined in the light of Prof. Walsh's report. Lord Widgery's judgement therefore about Young, Nash and McDaid must be clearly set aside since it was based in part on the evidence of the soldiers about the threat emanating from the barricade, a perception uniformly contradicted by the civilian eyewitnesses whose accounts were supported by the photographic evidence. Lord Widgery's speculation that some of those shot at the barricade were carrying weapons is revealed as a wholly unwarranted and, arguably, wilfully unfair imputation.

207. A disturbing feature concerning the deaths of Young, Nash and McDaid is the manner in which the bodies were treated by the soldiers. The appalling lack of respect, to put it mildly, in the manner in which they were treated is well illustrated by the following eyewitness accounts.

- ... a saracen came through the barricade near the boys who lay there. The boys were pulled by their arms and clothing off the barricade. At no time did the soldiers examine them to ascertain if they were dead. The elderly man was trying to reason with the soldiers but was butted and pushed away... The soldiers took arms and legs and threw the young men's bodies one after the other into the saracen. After this I was sick.

- I watched while the military dragged two of these three victims (I don't know if they were dead) to the second Saracen. They came back then for the third boy and dragged him over also. Six soldiers lifted the first two boys and threw them into the car just as if they were pigs. The third they lifted to throw him in too when to my horror I saw an officer with two epaulettes of two pips plus a crown (a Lieutenant-Colonel) kick this boy with his right boot as the men threw him into the car....

### The Widgery Report and the 'New' Material

- .. A saracen tank approached the bodies. Soldiers got out and tossed the bodies into the back of the saracen like coal into a bunker, showing no respect for the dead. I could see soldiers smiling over their dead. (William Bridge)

208. In addition to the disrespect, there was a complete failure to take any cognisance of the removal of the bodies in terms of the integrity of forensic evidence. The nature of the removal almost certainly contaminated the bodies with lead and completely undermined any possible inference on this score. A BBC 1 television documentary entitled "Remember Bloody Sunday", broadcast on 28 January 1992, recreated the forensic tests used at the time on the bodies of Nash, Young and McDaid and established that the nature of the removal by the Paras would result in a positive test for lead. Don Mullan has made the point that despite the presence of other bodies close by, only the bodies of Nash, Young and McDaid were retrieved by 1 Para and that they were only brought to Altnagelvin Hospital after 6.00pm. The particular treatment of these remains, considered in conjunction with the suggestion that they were killed by shots fired from the vicinity of the Walls, not only undermines Lord Widgery's assertions based on forensic tests carried out on the victims but also raises legitimate questions about why they were selected for such prompt removal.

209. Perhaps most disturbing of all was the failure to check if in fact the victims were actually deceased at the time of their removal by the British Army. It does not appear that any medical assistance was readily available from the British Army if the victims were still alive as claimed in the case of McDaid (see account of John Gorman below). This failure was compounded by the widespread and at times violent hindrance on the part of the soldiers to the Order of Malta when its uniformed members were attempting to render assistance.

210. In the statements given to the Government in 1972, there are numerous emphatic assertions that there were no guns or nail bombs being used against the British Army. They confirm the version of events given by the civilians to Lord Widgery that no firearms, petrol bombs or nail bombs were used in the vicinity of the Rossville Street barricade and that only stones and other such debris were used against the Army.

211. Lord Widgery's almost exclusive reliance - in his finding - on highly dubious forensic evidence which he invoked as supporting the soldiers' versions of events creates very strong grounds to contend that Lord Widgery consciously chose to accept a version of events at odds with the evidence. In contrast to the military eyewitnesses (who were in any event implicated in unlawful killings), the civilian eyewitness statements were internally consistent, mutually corroborating, and remained fully uniform in substance as between the versions given to NICRA/NCCL and later to the Widgery Tribunal. The civilian eyewitnesses all attested to the fact that at the time of their deaths, neither Young, McDaid nor Nash was using a firearm. Their evidence is all one way in that regard and is in direct conflict with the soldiers' versions of events. Lord Widgery's implicit judgement that all of the civilians erred or were lying beggars belief.

### The Widgery Report and the 'New' Material

212. In addition, Denis Patrick McLaughlin stated that a short time after the shootings at the barricade, soldiers appeared and moved the civilians present on. Having regard to the unique circumstances of the situation and the eyewitness accounts of them, serious doubt is cast on Lord Widgery's finding that there was sufficient opportunity for firearms to have been removed by others. The evidence points to a virtual improbability that the soldiers who arrested the people sheltering against the wall could possibly have failed to see, and recover, a firearm at the barricade if one was there - especially if the weapon was a sub-machine gun as alleged by Captain 028 (paragraph 52 of the Widgery Report). Not one of the many eyewitnesses, including soldiers and photographers, in the vicinity of that barricade saw that machine gun.

213. Finally, one might usefully recall the conclusion of Prof. Dash that "since the testimony of the civilian witnesses and Army witnesses is so irreconcilably conflicting as to these deaths, one of these groups of witnesses must have testified falsely. It would appear that there was a greater motive for paratroopers to lie in defence of their shooting and killing of civilians, than for the civilian witnesses. The civilian witnesses who actually came to the Inquiry to give testimony were exceptional, in light of the general reluctance of civilian eyewitnesses in Londonderry to cooperate with an English Inquiry." The new material - given very shortly after the Widgery Report was issued and based on the same evidence as that presented to Lord Widgery - emphatically endorses this conclusion.

Michael McDaid

Para 77. Age 20. This man was shot when close to Young at the Rossville Street barricade. The bullet struck him in the front in the left cheek. The paraffin test disclosed abnormal lead particle density on his jacket and one large particle of lead on the back of the right hand. Any of the soldiers considered in connection with the death of Young might equally well have shot McDaid. Dr Martin thought that the lead density was consistent with McDaid having handled a firearm, but I think it more consistent with his having been in close proximity to someone firing.

214. The observations regarding the death of Young in terms of the allegation of the use of firearms, the quality of the forensic tests, the reliability of soldiers' statements and the evidently partisan conclusion of Lord Widgery apply equally to the death of Michael McDaid. The photographic evidence (as published in Eyewitness Bloody Sunday) moments before his death clearly demonstrate that McDaid, dressed in his Sunday best, was unarmed and moving away from the advancing soldiers in Rossville Street. Far from being aggressive, his expression is one of concern and anxiety as he glances at the dying Michael Kelly being ministered to by other civilians, including Don Mullan himself. Moments later, McDaid is shot through the left cheek.

### The Widgery Report and the 'New' Material

215. Lord Widgery referred to the entry wound in his finding but failed to refer to the exit wound which was below the right scapula - the line of trajectory being clearly downwards. Had Lord Widgery done so and had he not ignored the medical evidence of the Assistant State Pathologist (Dr. John Press), he would have had to acknowledge and explain how McDaid was shot from an elevated position. Had he heeded civilians who had witnessed his death, he would have had to acknowledge also that McDaid was shot while facing the vicinity of the Derry Walls. Had Lord Widgery done that, he would consequently have had to explain how McDaid was shot in the head, from an elevated position, and while facing toward the vicinity of Derry Walls. Had he come to this point, he would certainly have had to abandon - at least in part - the very narrow geographical limits he had imposed on the Inquiry to include the activity of the British Army on the Walls.

216. Even on his own terms, while Lord Widgery accepted that McDaid himself was not handling a weapon, he failed to make any comment whatsoever on the fact that McDaid was, therefore, unlawfully killed by the British Army.

217. Alice Long, a Superintendent with the Order of Malta, says this about the removal of bodies from the area of the barricade:

- Captain Day noticed three soldiers guarding a Saracen. An officer appeared and shouted not to let anyone come near the Saracen. The soldier closed the door again. I got a glimpse inside and saw three bodies lying in a heap. The one on top was wearing a light coloured coat and seemed to have a wound in the face.

218. A particularly disturbing, not to say grisly, feature of the death of Michael McDaid, is claimed in the account related by one of the eyewitnesses, Mr John Gorman: "When I was at the wall at Glenfada Park, I saw Michael McDaid alive being put into a Saracen by Paratroopers in Rossville Street. Later that night, I learned that he was dead..."

219. Neither Captain Day nor Alice Long were called to testify at the Widgery Tribunal. If they had been, Counsel for the next of kin would have been able, on the basis of Long's statement alone, to cross-examine Army witnesses more fully on the forensic evidence relating to Young, Nash and McDaid - particularly, the whole question of forensic contamination and possibly on whether McDaid was alive when he was removed from the barricade.

220. While Mr. Gorman, an ex-serviceman with the Royal Enniskillen Fusiliers and the Ulster Defence Regiment, did testify at the Widgery Tribunal, it was not adjudged serious enough to warrant mention in the Report. That in itself is a reflection not only of the quality of the Report but the quality of justice which informed its authorship.

### The Widgery Report and the 'New' Material

William Noel Nash

Para 78. Age 19. He also was close to Young and McDaid at the Rossville Street barricade and the three men were shot almost simultaneously. The bullet entered his chest from the front and particles of lead were detected on the web, back and palm of his left hand with a distribution consistent with his having used a firearm. Soldier P (who can be seen in Mr Mailey's photographs EP 23/7 and 8; he is looking up the alleyway in No 7) spoke of seeing a man firing a pistol from the barricade and said that he fired four shots at this man, one of which hit him in the chest. He thought that the pistol was removed by other civilians. In view of the site of the injury it is possible that soldier P has given an accurate account of the death of Nash.

221. The following eyewitness accounts which appear to describe the death of William Nash are drawn from those given to the Government in 1972 and do not appear in Eyewitness Bloody Sunday. Had a reasonable number of the civilian eyewitnesses been called and had their accounts been subjected to cross-examination and corroboration by comparison with other sources of evidence, it would in all likelihood have been possible to clarify the exact circumstances of his death.

- I saw two soldiers, one with an SLR and one with a rubber bullet gun firing them in the direction of Free Derry Corner.... I moved around the back of Columcille Court to cross over to the Flats... when I moved across the street at the barricades, I saw two lads lying on top.... another lad moved over beside me at the barricade... Just then the lad I was with fell backwards and said "I am hit"... I saw a hole in his stomach.... He just lay still... I lay flat on my stomach just behind the three bodies.... I took refuge in a house and lay on the floor behind the back room window.... After several minutes I could hear English voices outside the window. I heard soldiers laughing and one made the remark to the effect "how many did we get"?... I can quite definitely say that I heard no shots before the Army fired. I can tell the difference between Army shots and other gun shots....

222. The following statement was published by Mullan.

- ... I saw a man dressed in a brown suit and with black hair running over the loose stones of the barricade towards Free Derry Corner. As I caught sight of him, he fell back and rolled over on his mouth and nose on the Free Derry side of the barricade. He was no more than three to four yards from me. He was unarmed in any way. He began screaming and I realised he had been shot. I then saw a friend of mine, George Roberts,... crawl over to his side... and he told me the man was dead.  
(Denis McLaughlin)

### **The Widgery Report and the 'New' Material**

223. The civilian eyewitness evidence is emphatic on the point that Mr. William Noel Nash, and those in proximity to him, were not using firearms or bombs when the Army opened fire. Lord Widgery failed to give due weight to this compelling body of eyewitness material. William Nash is one of the three victims identified in Mullan's thesis as having been shot from the vicinity of Derry Walls. The observations made in relation to the deaths of Young and McDaid apply therefore equally to him in terms of the entry and exit wound, the line of trajectory, the direction and source of fire, the removal of his remains and the likelihood of contamination. The new material, particularly that provided by Breglio, McClean and Thomas, are all highly relevant to any consideration of the manner in which Nash was killed. Lord Widgery's findings in regard to Nash, therefore, must be set aside as fundamentally flawed.

224. Lord Widgery's reliance on the testimony of soldier P has been completely undermined by the revelations contained in Prof. Walsh's report. The various statements made by him not alone were at variance with the facts but were riven with a litany of contradictions and substantive discrepancies. Had they been revealed at the time, they would have thoroughly discredited him as a witness. On this ground alone, Lord Widgery's pronouncements on the death of William Nash were wholly unreliable and must be deemed wilfully misleading.

225. Dr. McClean notes that Lord Widgery accepted that Nash was shot in the chest from the front but then directly moves to the alleged presence of lead particles on Nash's left hand to suggest that Nash had been using a firearm. As Dr. McClean points out, Lord Widgery "disregards any discussion relating to the exit wound and thereby discounts any discussion relating to the trajectory line through the body." He goes on: "The post mortem evidence indicates quite clearly that the angle of the bullet through the body was approximately 45 degrees [to the horizontal plane]. If William Nash was standing upright or nearly upright, then he must have been shot from above. He could not have been shot from ground level."

226. Dr. McClean also notes that in his evidence to the Tribunal, Dr. John Press, the Assistant State Pathologist who carried out the official post-mortem examinations of William Nash, Michael McDaid and John Young, stated that "both Michael McDaid and John Young were shot in the left cheek and would have died almost instantly. Had they been standing upright when they were shot, then the shot must have been fired from above and slightly to the left. It was possible that the two men were shot from the same position." Yet Lord Widgery took no account of this in his Report and suggested instead that any one of a number of soldiers in the Kells Walk area could have shot any or all of these men. As Dr. McClean concludes, "the similarity of the trajectory lines through the three bodies would suggest that this was not haphazard shooting from different soldiers, at different angles, at ground level. The evidence as established, would indicate that these men were shot from a location above them, and possibly by a marksman or marksmen, firing from the same position."

### The Widgery Report and the 'New' Material

Para 79. Mr Alexander Nash, father of William Nash, was wounded at the barricade. From a position of cover he saw that his son had been hit and went to help him. As he did so he himself was hit in the left arm. The medical opinion was that the bullet came from a low velocity weapon and Soldier U described seeing Mr Nash senior hit by a revolver shot fired from the entrance to the Rossville Flats. The soldier saw no more than the weapon and the hand holding it. I think that the most probable explanation of this injury is that it was inflicted by a civilian firing haphazardly in the general direction of the soldiers without exposing himself enough to take proper aim.

227. Alexander Nash described the circumstances in which he was wounded in the following account.

- I heard shooting and thought it was gas and rubber bullets, so I turned and went back to see what was happening. I saw three men lying on the small stone barricade in Rossville St. I looked and saw that one of the men was my son William... I ran across to help him... I put my left hand in the air to signal that the shooting should stop. I was shot in that arm and was hit in the ribs also. When I was hit, I was fired at four or five times. I dropped down beside Willie and the other two men. I put my hand on my son's back and said "Willie!". His eyes were wide open but I knew straight away that he was dead and that the other two were dead too.... I wish to state further that my son Willie had £3 with him and was wearing a distinctive signet ring when he left the house on Sunday. When his clothes were returned to us, the money and the ring were missing. (Alexander Nash)

228. The following eyewitness accounts starkly describe this poignant event involving Alexander Nash and his son William.

- ... Soldiers stood in the back gates of the Chamberlain Street house and behind a burned out van near what was once Eden Place and continued to shoot in the courtyard of the flats.... I saw an elderly man take cover on the barricade. He wore a blue suit and cap. He raised himself to a kneeling position and put his hand up in a waving gesture towards the soldiers. I saw him put up three fingers and I understood he was telling the soldiers that there were three bodies there who need medical or spiritual attention. Immediately he was shot. I saw him clutch his arm. He lay down but made an effort to get up again. More shots were fired at him. One hit a lamp standard just in front of him, the others hit the barricade near his head.... My husband recognised the elderly man wounded at the barricade as Alex Nash, but at the time we did not know that his son William was one of the three young men shot there.

- ... Three boys fell beside a home-made barricade outside the Flats. I heard a man call "That's my son..." It was Mr. Nash. As he raised both hands to show he was unarmed more shots came from the Army and he was wounded. One of the three boys at the barricade was Mr. Nash's son William. He was dead...(Mary Harkin)

### The Widgery Report and the 'New' Material

- Three fellows were lying against the barricade when a man came along and started to shake them. He realised they were dead so he tried to wave to the soldiers... I saw soldiers with steel helmets on their heads. They shot at him and he was wounded on the arm. He raised his arm and they shot again. The man fell down.(B. Marie)

229. Since Lord Widgery was not disputing Alexander Nash's claim to have been fired at a number of times, he was therefore in effect proposing that a civilian first fired a haphazard shot at soldiers, accidentally hitting Mr. Nash yards in front of him at the barricade; and that either the same civilian then fired haphazardly four or five times almost hitting the same victim again; or that the Army perhaps fired three or four times at the civilian with a revolver but they could only manage to nearly shoot again the victim whom the alleged gunman had just hit. In other words, Lord Widgery would have us believe that Alexander Nash was the inadvertent target of both a civilian gunman and the British Army. Yet the civilian eyewitness statements contain no reference to a civilian gunman and all agree that the British Army shot Mr. Alexander Nash while he was signaling that fire should cease while he made a futile attempt to help his dying or dead son. Alexander Nash's hurt and grief were to be compounded further by the British Army when 'an R.S.M. of the paratroopers' denied for some time the administration of spiritual assistance to Young, Nash and McDaid while their remains were inside a Saracen.

230. The eyewitness statements directly contradict soldier U's account of a revolver having been fired from the entrance to Rossville Flats. Prof. Walsh makes clear that soldier U failed to make any reference to this incident in his original statement. Combined with other changes, this clearly makes him unreliable. However, as Prof. Walsh also points out, soldier U's subsequent testimony at the Tribunal was inconsistent and contradicted known facts (e.g. soldier U claimed to have seen William Nash struck on the head; William Nash was not struck on the head). Furthermore, Prof. Walsh points out that the bullet which wounded Alexander Nash was not recovered and the medical evidence was based only on the notion that an Army bullet could normally be expected to cause more damage. The Tribunal, he writes, "ignored the fact that U's account was patently wrong as far as William Nash was concerned". Yet Lord Widgery was content to rely on it regarding the cause of Alexander Nash's wound. The new material dictates that Lord Widgery's judgement on how Alexander Nash came to be wounded must be set aside.

Michael Kelly

Para 80. Age 17. Kelly was shot while standing at the Rossville Street barricade in circumstances similar to those already described in the cases of Young, Nash and McDaid. The bullet entered his abdomen from the front which disposes of a suggestion in the evidence that he was running away at the time. The bullet was recovered and proved that Kelly was shot by Soldier F, who described having fired one shot from the Kells Walk area at a man at the barricade who was attempting to throw what appeared to be a nail bomb.....

### The Widgery Report and the 'New' Material

Para 81. The lead particle density on Kelly's right cuff was above normal and was, I think, consistent with his having been close to someone using a firearm. This lends further support to the view that someone was firing at the soldiers from the barricade, but I do not think that this was Kelly nor am I satisfied that he was throwing a bomb at the time when he was shot.

231. The following eyewitness accounts appear to attest to how Michael Kelly died.

- ... I was at the barricade at St. Columb's Court. I attended to a man who was hit by a rubber bullet when the Army opened up. I took him around the corner for shelter from the bullets. The man then said not to worry about him but to see to a man who was shot and bleeding to death just around the corner. We went over and picked him up. He had no weapons whatsoever on him or near him. His name is Michael Kelly. As we were running for cover with him the Army fired after us. We then took him into a house and attended to his wounds... We stayed there until the shooting had stopped. We then waited for an ambulance which was prevented from coming in, by which time young Kelly was in a bad state. He might have lived if we had got him to hospital.

- We ran in the direction of Glenfada Park. As we reached here, two young men fell behind the barricade. There had been at least a dozen shots fired by the Paras as we made for cover. A few seconds later, a youth was shot at the entrance to Glenfada Park. We rushed out and carried him towards the flats for shelter. We came under fire from the direction of Derry Walls, as we sought shelter. In my opinion, the youth was dead and I said an Act of Contrition in his ear. As I looked up, the late Gerry McKinney was also kneeling beside me and a Priest (Fr. Bradley) who was giving the Last Rites to the youth... (M.J.J.)

- I saw people running into Glenfada Park and was told that the army was coming into Rossville Street. Almost immediately, I heard the sound of gunfire. Within seconds of the gunfire commencing, I observed the body of a man lying in the entrance to Glenfada Park immediately opposite the main entrance to Rossville Street flats. I know now that this man was Michael Kelly, aged 17. I made my way to him and knelt down beside him. I noticed immediately that he had been shot. He was carrying no weapon of any kind. I .....then asked four people to carry him into a house to get medical attention. They raised him on their shoulders and headed for the far corner of Glenfada Park. Throughout all this time the shooting by the British soldiers continued.

### The Widgery Report and the 'New' Material

232. The civilian eyewitness evidence is absolutely clear that nobody at the Rossville Street barricade was using firearms or bombs of any kind. Lord Widgery found that Kelly was not firing at the soldiers from the barricade and that he was not throwing a bomb at the time he was shot. Soldier F however testified that he shot a man at the barricade who was about to throw a nail bomb which was fizzing or smoking. Lord Widgery accepted that the bullet which killed Kelly was fired by soldier F. In other words, he found that soldier F shot and killed Kelly, an unarmed civilian. Rather than drawing the obvious conclusion, Lord Widgery opted to imply that Kelly was shot in the company of others using nail bombs at the barricade, thus attempting to infer a degree of justification for soldier F's action. Lord Widgery yet again offered no explanation for soldier F's action in shooting Kelly or in making a claim which was directly contradicted by eyewitnesses and for which no corroboration could be found.

233. The scant treatment of Kelly's death is itself revealing. Lord Widgery failed to make any reference to the eyewitness statements refuting the notion that guns or nail bombs were being used by civilians on the barricade. Rather, he chose to support the contention of soldier F that hostile fire prompted return fire. Yet according to Prof. Walsh, soldier F made no mention of the shooting of a nail bomber on the barricade either in his original statement or in a supplementary one. This compounds Lord Widgery's decision not to indict in some manner the actions of soldier F. Once again, the new material has revealed that Lord Widgery's finding on the context in which Kelly was shot dead was based on a demonstrably unreliable and implicated witness, one who was known as such to the Tribunal but not made known to Counsel for the next of kin in the course of the adversarial proceedings. Lord Widgery's finding therefore is unreliable and misleading.

Kevin McElhinney

Para 82. Age 17. He was shot whilst crawling southwards along the pavement on the west side of No 1 Block of Rossville Flats at a point between the barricade and the entrance to the Flats. The bullet entered his buttock so that it is clear that he was shot from behind by a soldier in the area of Kells Walk. Lead particles were detected on the back of the left hand and the quantity of particles on the back of his jacket was significantly above normal, but this may have been due to the fact that the bullet had been damaged. Dr Martin thought the lead test inconclusive on this account. Although McElhinney may have been hit by any of the rounds fired from Kells Walk in the direction of the barricade— eg by Soldiers L and M, who are to be seen in Mr Morris's photograph EP 2/8— it seems probable that the firer was Sergeant K. This senior NCO was a qualified marksman whose rifle was fitted with a telescopic sight and who fired only one round in the course of the afternoon. He described two men crawling from the barricade in the direction of the door of the flats and said that the rear man was carrying a rifle. He fired one aimed shot but could not say whether it hit. Sergeant K obviously acted with responsibility and restraint. Though I hesitate to make a positive finding against a deceased man, I was much impressed by Sergeant K's evidence.

### The Widgery Report and the 'New' Material

234. The following eyewitness statements, drawn from Mullan and the statements given to the Government in 1972, record the following about the death of Kevin McElhinney.

- When the soldiers entered Rossville Street.... One of these soldiers ran towards a wall at the maisonettes opposite the High Flats - he aimed the rifle at a group of young boys who were standing on the Free Derry Corner side of a barricade of rubble which is directly outside the main doors of the High Flats.... I saw one of these boys fall just as a soldier fired from his position at the maisonettes ... Immediately I heard further shots ... directed at the other boys at the barricade of rubble. We retreated immediately to the doors of the flats. Kevin McElhinney was running alongside me. We were crouched and running at the same time - making for the main door of the flats. As I entered, I heard Kevin - who was now just behind me - shout "I'm hit.... I'm hit....". I dived on in the door and went up the stairs thinking that Kevin was behind me. I realised that no one was behind me so I ran back and saw Kevin lying dead just inside the door. Kevin was beside me for the few moments before he was shot. At no time had [he] a nail bomb, petrol bomb, gun or any other lethal weapon.

- ... I saw a youth running towards the entrance to the high Rossville flats. He was shot down from behind. Lying on the ground, he grabbed one of the canopy entrance supports. He dragged himself approx. one foot when two shots rang out in rapid succession. The youth appeared to lose his grip on the canopy support and his body went completely limp.... People who were in the entrance to the flats dragged him in...(M.J.J.)

- ... I then took refuge in a house in Glenfada Park... Looking out of the window... I saw a soldier in a kneeling position. He was approached by another soldier who seemed to be in a position of authority and his attention was drawn to a young boy who was crawling along the ground. The soldier who had been kneeling rose to his feet, took aim at the boy and pulled the trigger.... The boy stopped moving and someone from the flats pulled him into the doorway. The soldier who fired the shot followed the instructions given him by the other soldier and fired at targets as he was told....

235. The civilian eyewitness evidence contradicts directly Sergeant's K's account of McElhinney carrying a rifle when shot. The statement of eyewitness no. 50 is quite significant. Having regard to the eyewitness's proximity to McElhinney during the latter's last moments, the eyewitness directly contradicts in an unambiguous way Sergeant K's testimony that McElhinney was armed. There is little room for any uncertainty that the same incident is being related; at the moment of the shooting, eyewitness no. 50 states that he was indeed in front of McElhinney which matches Sergeant K's description. The account of eyewitness no. 50 corroborates the accounts given by two civilian eyewitnesses who testified before Lord Widgery. The clear burden of evidence, then as now, was that Kevin McElhinney was unarmed and that he was seeking refuge from the firing when he was shot dead.

### The Widgery Report and the 'New' Material

236. Since Sergeant K was a qualified marksman whose rifle was fitted with a telescopic sight, it is highly unlikely that he could have hit his target and failed to see that the target was not carrying a rifle. Moreover, if Sergeant K was so experienced a marksman (using a telescopic sight), logically it is difficult to see how he could fail to have known whether he had hit his target. Nor does the shooting from behind of a crawling figure - irrespective of whether or not he was armed - resonate of "responsibility and restraint". In this case, these words lose all true meaning when set against the unequivocal civilian eyewitness evidence that Kevin McElhinney was not armed when shot dead from behind.

237. Prof. Walsh's report reveals that, taken together, the statements by Sergeant K, soldier L and soldier M made variously to the Military Police, the Treasury Solicitors and the Inquiry are so replete with contradictions and discrepancies that they cannot be reconciled to each other, let alone the facts as decided by Lord Widgery. Lord Widgery's cavalier equivocation as between the guilt of McElhinney and the character of Sergeant K was unacceptable then and is clearly unsustainable now.

238. It is difficult not to draw attention to the description provided by the eyewitnesses of the chilling deliberation which preceded Kevin McElhinney's death. This was not death by accident. It was not death in the heat of battle. It was death through calculated selection by a supervisor to a marksman of a target who was clearly not presenting a threat but striving like his other fellow citizens to find shelter from a fusillade of Army fire. Indeed, so evidently calculated was the fatal shot directed at McElhinney that it might indicate the basis on which targets were selected. The evidence regarding the fatalities indicates that the injunction "move and you're dead", heard so often, supports a suspicion that this may have been a contributory factor in the soldiers' decisions of whom to shoot. (If this were true, it meant those who sought to render assistance to the dying and the wounded were particularly susceptible to becoming a target.)

James Joseph Wray, Gerald McKinney, Gerald Donaghy and William McKinney

Para 83. These four men were all shot somewhere near the south-west corner of the more northerly of the two courtyards of the flats at Glenfada Park. Their respective ages were 22, 35, 17 and 26. The two McKinneys were not related. Three other men wounded in the same area were Quinn, O'Donnell and Friel. I deal with the cases of these four deceased together because I find the evidence too confused and too contradictory to make separate consideration possible. One important respect in which the shooting in Glenfada Park differs from that at the Rossville Street barricade and in the forecourt of the Rossville Flats is that there is no photographic evidence.

239. In the scale of inadequate and unsatisfactory treatment represented by the Widgery Report, Lord Widgery's account of the four deaths in and around Glenfada Park was particularly abysmal. Seven people in all were hit by Army fire from just four soldiers within a tiny geographical area and under the eyes of numerous eyewitnesses, including the three survivors. Lord Widgery's findings on this carnage, inflicted with such apparent ease, by members of 1 Para on innocent civilians, merited just three paragraphs; equal to the number he devoted to defending the Army's spurious claim that one of the deceased, Gerard Donaghy, was carrying nail bombs.

### The Widgery Report and the 'New' Material

240. Lord Widgery failed to locate precisely (or even roughly) where they died, how they died and who shot them (the one exception was based on forensic evidence). Despite the plethora of evidence, Lord Widgery took refuge in a confusion that was only evident to him and which it was surely his remit to end. Despite the Tribunal's knowledge that the implicated soldiers provided contradictory and highly dubious accounts which could not be matched with those of civilian (i.e. non-implicated) eyewitnesses, Lord Widgery wilfully failed to adjudicate on the credibility of the contending versions and claimed without justification that contradictions occluded a definite conclusion. Lord Widgery chose only to hear the testimony of the soldiers who actually fired rather than seeking the views of non-implicated soldiers who were present but did not fire. In short, Lord Widgery again failed inexplicably to reasonably and fairly consider all of the relevant evidence available to him.

Para 84. Four soldiers, all from the Anti-Tank Platoon, fired in this area, namely E, F, G and H. Initially the Platoon deployed in the Kells Walk area and was involved in the firing at the Rossville Street barricade. It will be remembered that at this time some 30 or 40 people were in the region of the barricade, of whom some were engaging the soldiers whilst others were taking cover behind the nearby gable end of the flats in Glenfada Park. (Mr Mailey's photographs EP 23/10, 11 and 12.) Corporal E described how he saw civilians firing from the barricade and then noticed some people move towards the courtyard of Glenfada Park. He said that on his own initiative he accordingly led a small group of soldiers into the courtyard from the north-east corner to cut these people off. The recollection of the Platoon Commander (Lieutenant 119) was somewhat different; he said that he sent Soldiers E and F into the courtyard of Glenfada Park to cut off a particular gunman who had been firing from the barricade. The result in any event was that Soldiers E and F advanced into the courtyard and Soldiers G and H followed shortly afterwards. In the next few minutes there was a very confused scene in which according to civilian evidence some of the people who had been sheltering near the gable end of Glenfada Park sought to escape by running through the courtyard in the direction of Abbey Park and the soldiers fired upon them killing the four men named at the head of this paragraph. Soldiers E, F and G gave an account of having been attacked by the civilians in this group and having fired in reply. Soldier H gave an account of his activities with which I deal later. From the forensic evidence about a bullet recovered from the body it is known that Soldier G shot Donaghy. It is clear that the other three were shot by Soldiers E, F, G or H. Although several witnesses spoke of having seen the bodies there was a conflict of evidence as to whether they fell in the courtyard of Glenfada Park or between Glenfada Park and Abbey Park. The incident ended when the 20 to 30 civilians remaining in the courtyard were arrested on the orders of the Platoon Commander, who came into Glenfada Park just as the shooting finished.

### The Widgery Report and the 'New' Material

Para 85. In the face of such confused and conflicting testimony it is difficult to reach firm conclusions but it seems to me more probable that the civilians in Glenfada Park were running away than that they were seeking a battle with the soldiers in such a confined space. It may well be that some of them had been attacking the soldiers from the barricade, a possibility somewhat strengthened by the forensic evidence. The paraffin tests on the hand swabs and clothing of Gerald McKinney and William McKinney were negative. Dr. Martin did not regard the result of the tests on Donaghy as positive but Professor Simpson did. The two experts agreed that the results of the tests on Wray were consistent with his having used a firearm. However, the balance of probability suggests that at the time when these four men were shot the group of civilians was not acting aggressively and that the shots were fired without justification. I am fortified in this view by the account given by Soldier H, who spoke of seeing a rifleman firing from a window of a flat on the south side of the Glenfada Park courtyard. Soldier H said that he fired an aimed shot at the man, who withdrew but returned a few moments later, whereupon Soldier H fired again. This process was repeated until Soldier H had fired 19 shots, with a break for a change of magazine. It is highly improbable that this cycle of events should repeat itself 19 times; and indeed it did not. I accepted evidence subsequently given, supported by photographs, which showed that no shot at all had been fired through the window in question. So 19 of the 22 shots fired by Soldier H were wholly unaccounted for.

241. The following is a selection of eyewitness accounts of the events in Glenfada Park as published in Eyewitness Bloody Sunday.

- I got only as far as Glenfada Park when I heard people shouting and squealing 'There's the army. There's the Saracens'. I stopped and looked to my left and saw a group of people running through an arch in front of me. A young man in the group wearing a blue suit had an injury and lacerations to the side of his head... I ran in the door [of No 7] ... I kept the door slightly open and looked through the slip-way between the houses in front of me. I saw a young man falling and as he fell he hit his head on the side walk... His head was raised up looking towards me and I saw a cut above his left eye. He tried to raise himself up but failed and then I saw blood on his wrist.... I ran out towards the man.... As I was running I saw one of the men make an effort to go towards the injured man. I then heard three bullets hitting the wall between myself and the injured man.... I ran back to No. 7... I saw an elderly man lying face up on the ground. He was not moving.... I then saw a young man run from the right towards the man waving a white handkerchief. He stopped between the corner and the man and shouted "Don't shoot, don't shoot". The next I saw he was knocked off his feet onto the ground... [Later] I saw the first para of the second group fire four shots from the hip position and fanned the rifle as he did so.... I moved to the centre of the window and still observed the man I had tried to rescue. I saw him lift his head off the ground... I then saw the back of the man's coat jump twice about 4 or 5 inches in the air and I said 'Good God, that man's just been shot twice in the back at close range'. I saw some smoke rise from where he had been shot....(John P.)

### The Widgery Report and the 'New' Material

- Some soldiers crossed Glenfada car park and started shooting at the men who were at the corner of Glenfada Park opposite my house (8 Abbey Park).... a soldier.. ran forward towards several men at the corner of the house and stopped 15-20 yds from them - the men ran except one man who put his hands above his head and faced the soldier. The soldier put the gun to his shoulder and shot at this man who fell on his face and turned over. Another man ran to him from the next house - the soldier was still standing there and as the man bent over the injured man, the soldier shot him too and he fell. The soldier then ran away back through Glenfada Park...(John Carr)

- I went back home [Abbey Park] and I had just arrived there when the shooting started... The firing ceased for a few minutes and I went to the window and saw the legs of a man lying outside. There were five or six people across from him and a youth lying in Glenfada Park. The shooting started again. The boys across the street had their hands above their heads. A man stepped over a low wall to reach the man who was lying down. He had his hands above his head. At this point I saw the man lying in Glenfada Park raise himself from the ground. I saw a soldier run up to him and shoot him again. He fell in the road again. This same soldier then fired at the man who had stepped over the [low] wall and this man fell. He crawled and the soldier shot him again. A girl from the First Aid post ran to him and a shot was fired at her... People brought the last man who was shot into my home. He was not dead.... the ambulance came to take the man. This man is now dead. I now know that he was William McKinney. I can state with absolute certainty that Mr. McKinney had no weapon of any kind.(Bridget O'Reilly).

- I then made my way to Glenfada Park. Suddenly, fire sounded to my right. Shots then came from the direction of the walled part of the city, which are patrolled solely by the security forces. I saw two men running towards where I was taking cover. One of them I knew personally. His name is Gerard McKinney. He was running across an open courtyard in Glenfada Park. I saw him stop and fling his arms in the air. He shouted "No, No", and was shot by a soldier who appeared at the corner. McKinney fell to the ground on his back and lay still. The other who fell was moving, tried to pull himself towards us, but seemed to lose consciousness. Several attempts were made to get to the fallen men, but each time anyone exposed himself he was fired on...(Charles M, a former RUC officer)

### The Widgery Report and the 'New' Material

242. These statements are supported by other statements made to the Government in 1972.

- I then ran down to my own gate [Abbey Park] and some men were with me and I brought them into the house with me. I went to my front window and I saw a youth fall at Glenfada Park - his head was on the kerb and his body on the street. He moved slightly - and just as I was going to go out to him more shots rang out, the youth's body jerked and lay still. A soldier jumped over his body and then stood at the Housing Trust Office - a youth in blue denims ran with his hands above his head towards the steps - the soldier took aim and shot - the youth fell, tried to rise on his elbow and another lad with hands above his head ran towards the wounded youth - he fell shot beside this youth. He also moved and the soldier shot twice at him again.... men were able to lift the three bodies and bring one to my house and two next door. These three youths died.

- More shots rang out and my friend ran across to Glenfada Park and I stood behind a car. Then, I saw a man running out holding his arm. Another three shots rang out and this man fell. A soldier appeared and ran forward and shot this man at point blank range in the lung.... I and a few others went to this man's aid.... we heard that there was another body at the back of the block of flats. We walked round with our hands on our heads and then three shots rang out, two hitting the wall beside us. The bloke in front of us was hit in the head.... We went back to the man who had been shot three times and we took him to a nearby house and I stayed with him until he died about half an hour later.

- I saw two men [from Abbey Park], one young man, the other about middle aged, and one soldier. The two men were walking towards the soldier who had a gun trained on them. One was dressed in brown clothes, brown suit, brown socks and brown shoes. This man was the older of the two men. The younger man was dressed in a white shirt and dark coat and dark trousers. He had thick black hair. The two men were walking, with their hands on the crown of their heads, from Abbey Park out towards Glenfada Park... just outside Mrs O'Reilly's window the soldier fired his rifle. He had his rifle against his chest and the two men fell.

### The Widgery Report and the 'New' Material

- Near Columcille Court, the shooting started in earnest... A youth (aged about 16) was shot in the side and Gerry (McKinney) knelt to try and assist the young fellow. Along with a couple of other boys we tried to lift him out of danger but the retreating crowd knocked him from our grasp.... Gunfire was heavy when I suggested that we try to cross the Court in the direction of Butcher Street... Gerry decided after a few minutes to take a chance and accompanied by a youth, whom I don't know, he led us out across the Court... At a stage when I can only assume he was visible from the other side of the entrance Gerry turned, shouted "No, No" and put his hands in the air. A shot rang out which caught Gerry in the chest and he fell forward. A second shot rang out and the youth who was leading the way along with him fell to the ground... The Army shot them in cold blood....

243. The civilian eyewitness accounts are clear, internally consistent and mutually corroborating. Even without the elucidation of cross examination, information available from military sources and the support of forensic and ballistics evidence, it is quite possible to draw some conclusions as to what happened in Glenfada Park and Abbey Park. There was little or no justification for Lord Widgery's confusion and his inability to locate where each of the victims was located as between Glenfada and Abbey Parks. John P. - a quartermaster with the Irish Army - describes the killings of James Joseph Wray, and either Gerard McKinney or Gerard Donaghy.

244. Like other eyewitnesses, John P. also described the efforts to assist the wounded being thwarted and, particularly disturbingly, of the coup de grace administered to James Wray who was injured but clearly alive when he was again shot in the back at close range by a soldier. This eyewitness account is remarkably accurate on points of detail - for example, the medical evidence shows that Wray did indeed have a laceration above the left eye and an abrasion in the region of one of his wrists. Eyewitness no. 26 confirmed the account that Wray was shot while lying injured on the ground. Dr. McClean, on the treatment of the killing of James Wray in the Report, says the following:

- No reference was made to the very clear forensic evidence produced at post mortem. No reference was made to the fact that the forensic evidence was consistent with several eye-witness accounts which stated that Jim Wray was shot [dead] in the back as he lay on the ground. Several eye-witnesses stated that they called to Jim Wray as he lay on the ground. He replied that he was all right but that he couldn't move his legs. This was consistent with the lower entry and exit wounds, caused by a bullet travelling across the lumbar region superficially.

### The Widgery Report and the 'New' Material

245. Eyewitness no. 26 also describes the shootings of Gerard McKinney and Gerard Donaghy, noting that Donaghy was running with his hands above his head when he was shot. The other person, Gerard McKinney, was shot immediately afterwards while he too had his arms raised. In his book, *The Road to Bloody Sunday*, Dr. McClean states: 'It was very clear from the trajectory line of this bullet that this man must have had both arms raised, otherwise the fatal bullet must have penetrated one or both arms. No reference to this very clear evidence was made anywhere in the Widgery Report'. According to eyewitnesses, the last words of Gerard McKinney were: "Don't Shoot! Don't Shoot!" or 'No! No!'.

246. Eyewitness Bridget O'Reilly gives a very moving account in *Eyewitness Bloody Sunday* of the death of William McKinney. Her account is very clear on the point that this man was shot while selflessly and courageously going to the assistance of another. Indeed, when shot, other eyewitnesses support her account that the injured McKinney still persisted with his efforts at assistance. As Bridget O'Reilly states in her account: 'This same soldier then fired at the man who had stepped over the [low] wall and this man fell. He crawled and the soldier shot him again. A girl from the First Aid post ran to him and a shot was fired at her'. This account does not necessarily conflict with the medical evidence because McKinney had two entry wounds: one on the left wrist and one on the right side of the back. Lord Widgery's delicately chosen words that the shooting in Glenfada Park 'bordered on the reckless' amounted to a gross distortion of the accounts offered by civilian eyewitnesses.

247. Based on the foregoing, the following assertions can reasonably be made:

- that paratroopers of the anti-tank unit entered Glenfada Park and that four of them opened fire on a panic stricken group of civilians who were attempting to flee both the shooting in Rossville Street and the members of 1 Para who had appeared in Glenfada.
- that none of these civilians was armed or hostile.
- that one of the paratroopers shot and wounded James Wray and that the same or another paratrooper then shot him dead at close range.
- that William McKinney, when going to the assistance of another injured man, was wounded and died, his death possibly caused by a second bullet fired from close proximity.
- that a paratrooper stood at the entrance to Abbey Park and shot and perhaps killed two of the victims.
- that Gerard Donaghy and Gerard McKinney were shot and killed at close range or at almost point blank range while indicating that they were unarmed and/or pleading to live.

### The Widgery Report and the 'New' Material

248. Particularly within the context of eyewitness accounts of the killings and injuries in Glenfada Park, it is important to note that, throughout his entire Report, Lord Widgery did not refer to any detailed forensic examination of the clothing of the deceased with reference to bullet entry wounds. The records of the Inquests, which took place on 21 August 1973, do not indicate that any such examinations took place. In the case of James Wray, for example, it was noted that forensic swabs were taken from his hands but there was no indication that his clothes were subject to detailed forensic examination by reference to the entry wounds on his back. Such examinations, set within the context of the bullet entry wounds of the deceased, could have provided crucial assistance to establishing the veracity or otherwise of eyewitness accounts that some of the victims were shot dead at close range or point blank range.

249. When set, for example, against the emphasis given to dubious forensic evidence regarding the scarf in Bernard McGuigan's case, the absence of any reference in the Widgery Report to proper forensic testing on clothing relative to bullet entry wounds reinforces the assertion that the Tribunal, on the one hand, selectively invoked dubious forensic evidence in defence of the Army's claims and, on the other hand, wilfully ignored potentially valuable sources of evidentiary material with the effect of grossly and perversely distorting the case regarding the deceased.

250. Lord Widgery's findings on the actions of 1 Para in Glenfada Park were also woefully inadequate and misleading. Not only is there no finding produced on the three wounded men, but the treatment of the circumstances surrounding the four dead is banal in the extreme. For example, the post-mortem reports show clearly that James Wray was shot twice in the back and that William McKinney was shot once in the back. In this as in other instances, what Lord Widgery chose to ignore was more revealing than what he chose to write about in his finding.

251. The accounts provided by the civilian eyewitnesses have been considerably enhanced by the emergence of the Para AA statement. There is an eerie correlation between the civilian eyewitness accounts here and that provided in the Para AA document which described in vivid and compelling detail the anti-tank platoon's action in Glenfada Park thus:

- Para DD, Para CC, Para EE and myself then leapt the wall, turned right and ran down Kells Walk into Glenfada Park, a small triangular car park within the complex of flats. A group of 40 civilians were there running in an effort to get away. Para CC 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. They lay sprawled together half on the pavement and half in the gutter. Para DD shot another man at the entrance of the Park who also fell on the pavement. A fourth man was killed by either Para EE or Para FF. I must point out that this whole incident in Glenfada Park occurred in fleeting seconds and I can no longer recall the order of fire or who fell first but I do remember that when we first appeared darkened faces, sweat and aggression, brandishing rifles, the crowd stopped immediately in their tracks, turned to face us and raised their hands. This is the way they were standing when they were shot.

### The Widgery Report and the 'New' Material

252. The Para AA document bears a striking and detailed similarity to the versions offered by civilian eyewitnesses from the perspective of a soldier. In and of itself, it is a compelling and horrifying account of how four of the fatalities of Bloody Sunday met their end. It is a highly significant corroboration of the events as related by the civilian eyewitnesses from the soldier's perspective.

253. As a non-implicated military eyewitness, Para AA might have been prepared to give a more candid account of the actions of his colleagues had he been called to testify. However, Para AA alleges that his attempt at candour was frustrated by the Tribunal staff:

- "Disguised and escorted I was led hunched up through a lot of waiting pressmen and reporters and shown into some offices within the building. Here there were a number of soldiers from my Platoon, all disguised as I was and we spent some time pouring over airxxx [aerial?] photographs with the S.I.B.[Special Investigations Branch] trying to establish which shots had been fired by whom and from where - what a farce, we were all grinning at each other and drawing lines haphazardly all over the place with the result that the authorities finished up with a series of photographs of sophisticated looking spider webs which bore no relation to fact. I was then interviewed in an office by two Crown lawyers on Lord Widgery's team. I rattled off everything I had seen and had done. The only thing I omitted were names and the manner in which people had been shot, apart from that I told the truth which I wanted to convey. Then to my utter surprise one of these doddering gentlemen said 'dear me Private 027, you make it sound as though shots were being fired at the crowd, we can't have that can we?' And then proceeded to tear up my statement. He left the room and returned ten minutes later with another statement which bore no relation to fact and was [sic] told with a smile that this is the statement I would use when going on the stand.

254. Para AA's allegation that the staff of the Widgery Tribunal colluded to present distorted and inaccurate statements by soldiers to the Inquiry is particularly damning for the Inquiry as a whole. If substantiated, it would thoroughly discredit not just Lord Widgery's account of the killings in Glenfada but the whole exercise of the Inquiry itself and the Report which issued from it.

### The Widgery Report and the 'New' Material

255. Para AA's allegation may help explain the pattern of alterations in the statements of the soldiers revealed by Prof. Walsh's Report. Prof. Walsh's analysis of the original statements by soldiers E, F, G, and H reveals that none of their versions matched and that major discrepancies existed both between each other and between different statements made by the same soldier. None of their versions of what happened actually matched. Soldier E claimed he entered on his own initiative and was bombarded with nail bombs; he subsequently revised this to one or two nail bombs. Soldier F claimed he was ordered to go there by E (Lieutenant 119 also claimed to have given the order). He originally claimed that 30 to 40 rioters left the barricade and went to Glenfada Park but later dropped this. The lines of fire marked on the map did not match his evidence (not surprisingly, if Para AA is to be believed). In his original statement, soldier G claimed to have shot a gunman and pursued two others who had picked up the weapons but later dropped this. None of the discrepancies and alterations were revealed to Counsel for the next of kin. Soldier H's evidence was so bizarre that even Lord Widgery discounted it. As Prof. Dash pointed out, "this soldier's multiple falsehoods deserved more emphasis than the delicate mention Lord Widgery made of them."

256. In the light of the eyewitness statements, the account by Para AA and the report of Prof. Walsh, the conclusion that Soldiers E, F, G and H were lying proves inescapable.

257. Prof. Walsh also refers to the inadequacy of Lord Widgery's finding that the shots were fired without justification on "the balance of probability". As he puts it, "the nature of evidence offered was such that any impartial judicial body should have been satisfied beyond a reasonable doubt that the soldiers' firing in Glenfada/Abbey Park was unjustifiable."

Para 86. A special feature of Gerald Donaghy's case has some relevance to his activities in the course of the afternoon although it does not directly bear on the circumstances in which he was shot.

Para 87. After Donaghy fell he was taken into the house of Mr. Raymond Rogan at 10 Abbey Park. He had been shot in the abdomen. He was wearing a blue denim blouse and trousers with pockets of the kind that open to the front rather than to the side. The evidence was that some at least of his pockets were examined for evidence of his identity and that his body was examined by Dr. Kevin Swords, who normally worked in a hospital in Lincoln. Dr. Swords' opinion was that Donaghy was alive but should go to hospital immediately. Mr. Rogan volunteered to drive him there in his car. Mr. Leo Young went with him to help. The car was stopped at a military check-point in Barrack Street, where Mr. Rogan and Mr. Young were made to get out. The car was then driven by a soldier to the Regimental Aid Post of 1st Battalion Royal Anglian Regiment, where Donaghy was examined by the Medical Officer (Soldier 138) who pronounced him dead. The Medical Officer made a more detailed examination shortly afterwards but on neither occasion did he notice anything unusual in Donaghy's pockets. After another short interval, and whilst Donaghy's body still lay on the back seat of Mr. Rogan's car, it was noticed that he had a nail bomb in one of his trouser pockets (as photographed in RUC photographs EP 5A/26 and 27). An Ammunition Technical Officer (Bomb Disposal Officer, Soldier 127) was sent for and found four nail bombs in Donaghy's pockets.

### The Widgery Report and the 'New' Material

Para 88. There are two possible explanations of this evidence. First, that the bombs had been in Donaghy's pockets throughout and had passed unnoticed by the Royal Anglians' Medical Officer, Dr. Swords, and others who had examined the body; secondly that the bombs had been deliberately planted on the body by some unknown person after the Medical Officer's examination. These possibilities were exhaustively examined in evidence because, although the matter is a relatively unimportant detail of the events of the afternoon, it is no doubt of great concern to Donaghy's family. I think that on a balance of probabilities the bombs were in Donaghy's pockets throughout. His jacket and trousers were not removed but were merely opened as he lay on his back in the car. It seems likely that these relatively bulky objects would have been noticed when Donaghy's body was examined; but it is conceivable that they were not and the alternative explanation of a plant is mere speculation. No evidence was offered as to where the bombs might have come from, who might have placed them or why Donaghy should have been singled out for this treatment.

258. The following accounts appear in Eyewitness Bloody Sunday regarding the death of Gerard Donaghy and the allegation that he was carrying nail bombs.

- A young man whose name I later learnt was Gerard Donaghy was brought into my sitting room. He was unconscious and badly wounded in the lower left abdomen. A man who said he was a doctor was present. The doctor told me that he would have a chance of living if he was got to hospital soon. I volunteered to take him in my car and I set off for Altanagelvin Hospital with the wounded man in the back seat. Mr. Leo Young accompanied me... I drove... into Barrack Street where I was stopped at an army barricade by the Royal Anglian Regiment. I was immediately pulled out at gunpoint, thrown against a fence. I attempted to protest as I had a wounded man but was told to shut up or I would be shot. After half an hour I was made to sit down and after another half hour we were taken to an army compound on the Craigavon Bridge. My car had been driven away but I didn't see this being done. I had asked an officer to contact the RUC but he told me he was contacting nobody and also a soldier told me that if I made a move I was dead as one stiff wasn't enough for them... At the army compound, I was searched... I was then told by [Detective Sergeant] Mactaggert that a bomb had been found on the wounded man in my car... There was then an explosion and Mactaggert indicated, but didn't actually say, that it was of the bomb found on the wounded man being detonated...(Raymond Rogan)

### The Widgery Report and the 'New' Material

- I took one man to the house of Mr Rogan in 10 Abbey Park. He was unconscious and his intestines seemed to be protruding out of his stomach. I tried to find his identification from anything in the two top pockets of his blue denim jacket but found nothing. Mr. Rogan got in his car in order to take the man to hospital. I went in the car with Mr Rogan driving... In Barrack Street, we were stopped at an army barricade and pulled out of the car. I said to a soldier 'What about that dying young fellow?' and he said, 'Let the bastard die'. I said, 'You are just an animal'. He then put me up against some railings, pointed his gun at me and told me that if I blinked he would blow my head off. There was another private car there with the wounded Joe Friel in it. I didn't actually see Friel but the men who got out of the car told me that it was him. Two soldiers drove these cars away and I never saw the wounded men again. We were taken to an army post in Foyle Road near Craigavon Bridge and kept for an hour and a half... I was then taken to Victoria Barracks and then to Ballykelly and not released until the following Monday. It was only then that I heard my brother John had been killed. At no time did I see any civilians carrying a weapon and I never heard the explosion of nail bombs or petrol bombs...(Hugh Leo Young)

259. Donaghy was wearing tight denim jeans and jacket. A man who helped carry him into Mr. Rogan's house testified that so tight were the jeans, 'a thin chocolate bar' in any of the pockets would have been noticed. Dr. Swords testified that he could not possibly have failed to observe nail bombs in Donaghy's pockets when brought to the house. He had thoroughly examined Donaghy's body and practically every part of his clothing before recommending that he be taken to hospital immediately. Young testified that he checked the two top pockets of Donaghy's denim jacket and found nothing. Soldier 138, a British Army Captain and Medical Officer, carried out two examinations of Donaghy's body. The purpose of the first examination was to determine if Donaghy was alive. The purpose of the second, after finding Donaghy dead, was to explore the nature of the wounds. This latter examination was more detailed. The Army Medical Officer opened Donaghy's jeans and examined most of his body, including adjusting his jeans and jacket. He testified that he did not see any nail bombs in Donaghy's possession during either examination.

260. Yet an RUC officer and Army witnesses testified that shortly afterwards, they found four nail bombs in Donaghy's clothing - one in each of his jeans pockets and one in each of his jacket pockets. Having regard to the evidence before Lord Widgery, his finding that on a balance of probabilities the bombs were in Donaghy's pockets throughout is so extraordinary as to border on the farcical. Nail bombs, which are bulky (weighing about half a pound and measuring roughly 4.5 by 2 inches) could not conceivably have escaped the notice of civilians, medical experts and military personnel. If they were present, they would have been removed in any case by those civilians who had brought him to shelter. Nail bombs were not noticed by either Soldier 138 or any of the civilians who were with Donaghy during the last minutes of his life - one of whom, Young, actually stated that he searched Donaghy's jacket pockets.

### The Widgery Report and the 'New' Material

261. The logic of the evidence presented to Lord Widgery is that the nail bombs were not in Donaghy's pockets until they were placed there while his body was in the custody of the authorities. Lord Widgery claimed that "no evidence was offered as to where the bombs might have come from, who might have placed them or why Donaghy should have been singled out for this treatment." However, the testimonies of the Royal Anglians' Medical Officer and the civilian eyewitnesses all agree fully on the point that Donaghy was not carrying nail bombs prior to his death; and the evidence clearly shows that the RUC and Army had the opportunity to plant them. Evidence was therefore offered as to where the bombs might have come from and who might have placed them there. The motive for planting nail bombs on Donaghy is clear since even Lord Widgery found that the shooting was without justification. Lord Widgery's attempt to besmirch Gerard Donaghy emerges as transparent as it was tawdry.

262. Finally, mention must be made yet again of Lord Widgery's marked failure to have at least admonished the Army for forcing out the driver of the car carrying the seriously injured Donaghy. The resultant delay, for an unspecified amount of time, in the administration of urgent medical assistance might possibly have been a significant contributory factor to his death.

#### B. Were the Soldiers Justified in Firing?

Para 89. Troops on duty in Northern Ireland have standing instructions for opening fire. These instructions are set out upon the Yellow Card which every soldier is required to carry. Soldiers operating collectively—a term which is not itself defined—are not to open fire without an order from the Commander on the spot. Soldiers acting individually are generally required to give warning before opening fire and are subject to other general rules which provide inter alia:

"2. Never use more force than the minimum necessary to enable you to carry out your duties.

3. Always first try to handle the situation by other means than opening fire. If you have to fire:

(a) Fire only aimed shots.

(b) Do not fire more rounds than are absolutely necessary to achieve your aim".

### The Widgery Report and the 'New' Material

Para 90. Other stringent restrictions apply to soldiers who have given warning of intention to fire. But the rule of principal significance to the events of 30 January is that which contemplates a situation in which it is not practicable to give a warning. It provides:

"You may fire without warning

13. Either when hostile firing is taking place in your area, and a warning is impracticable, or when any delay could lead to death or serious injury to people whom it is your duty to protect or to yourself; and then only:

(a) against a person using a firearm against members of the security forces or people whom it is your duty to protect; or

(b) against a person carrying a firearm if you have reason to think he is about to use it for offensive purposes."

Para 94. Soldiers will react to the situations in which they find themselves in different ways according to their temperament and to the prevailing circumstances. The more intensive the shooting or stone-throwing which is going on the more ready will they be to interpret the Yellow Card as permitting them to open fire. The individual soldier's reaction may also be affected by the general understanding of these problems which prevails in his unit. In the Parachute Regiment, at any rate in the 1st Battalion, the soldiers are trained to take what may be described as a hard line upon these questions. The events of 30 January and the attitude of individual soldiers whilst giving evidence suggest that when engaging an identified gunman or bomb-thrower they shoot to kill and continue to fire until the target disappears or falls. When under attack and returning fire they show no particular concern for the safety of others in the vicinity of the target. They are aware that civilians who do not wish to be associated with violence tend to make themselves scarce at the first alarm and they know that it is the deliberate policy of gunmen to use civilians as cover. Further, when hostile firing is taking place the soldiers of 1 Para will fire on a person who appears to be using a firearm against them without always waiting until they can positively identify the weapon. A more restrictive interpretation of the terms of the Yellow Card by 1 Para might have saved some of the casualties on 30 January, but with correspondingly increased risk to the soldiers themselves.

263. Lord Widgery opens these paragraphs with the very pertinent question: Were the soldiers justified in firing? The evidence is compelling that they certainly were not justified. Indeed, the claim can credibly be made that the more horrific and deliberate the killing and the more pressing the need for concealment of evidentiary material of benefit to Counsel for the next of kin, the greater was the propensity on Lord Widgery's part to have found that the victim was armed or in close proximity to someone who had fired.

### **The Widgery Report and the 'New' Material**

264. Lord Widgery produced findings on just two of the thirteen wounded (fourteen including John Johnson who died shortly afterwards). He claimed that every soldier was looking for and firing at a gunman. He found that John Young and William Nash, shot at the Rossville Street barricade (and now understood to have been shot from the vicinity of the Walls) were armed, that Kevin McElhinney, shot from behind while seeking cover by Sergeant K, was armed with a rifle and that James Wray, shot twice in the back at close range while lying injured on the ground had been armed at some point during the day. Lord Widgery found that Bernard McGuigan, Michael McDaid and Michael Kelly were shot dead when standing close to gunmen who had fired. There was no credible evidence to support any of these findings.

265. On the basis of Lord Widgery's view that the soldiers were looking for and firing at gunmen and that many of those shot and killed by them were implicated as gunmen or close to gunmen when they were shot, Lord Widgery was in effect putting forward the proposition indirectly and by implication that a mini arsenal comprising sub-machine guns, rifles, revolvers, pistols, petrol bombs, acid bombs and nail bombs had been used against the British Army, that the use of all of these weapons had singularly failed to hit or injure a single soldier or civilian, that this arsenal simply disappeared through some ingenious recovery operation implemented by civilians, and that these gunmen (save for those fatalities Lord Widgery was content to consider gunmen, contrary to all the evidence) and those removing the weapons escaped death, injury or arrest. Not alone therefore is the answer to Lord Widgery's question self-evidently clear but the scenario he proposed as a credible one to explain and justify the actions of the British Army can only be considered incredible and unsustainable.

266. McMahon legitimately asks why Lord Widgery "constitutes the soldiers as the interpreters of their own orders." He writes, "it is no more the soldier's right to interpret the rules on the Yellow Card than it is the citizen's right to interpret for himself the law of the land." Furthermore, "not only were there to be different interpretations in different units but different interpretations by different soldiers....The introduction of this degree of subjectivity on the part of the unit and the soldier diminishes drastically the objective importance of the Yellow Card and runs counter to the general attitude taken by the law to rules and interpretations." McMahon demonstrates in a very compelling manner that Lord Widgery, despite his office, his experience, even his prior rulings, failed to give due consideration to whether the Yellow Card rules had been breached by the soldiers acting by an objective standard of reasonableness. Not only was this unusual in the common law but was "almost unheard of in the interpretation of non-discretionary rules in any jurisprudence."

267. This is but one of many salient points made by McMahon in the course of his legal commentary on the Widgery Report. He submits that Lord Widgery, in his consideration of the actions of the soldiers "was applying a quasi-moral [standard] where he was more concerned with the morality of the soldiers' acts than with either the Yellow Card or the law of the land. Legally speaking, the soldiers' moral problems were not at issue. The question was a legal one...." It should be borne in mind that McMahon based his argument on the facts as presented in the Widgery Report and, even on these terms, he found seriously wanting Lord Widgery's application of the law and standards.

### **The Widgery Report and the 'New' Material**

268. On the basis of paragraph 94 of the Widgery Report, McMahon posed the very relevant question of whether it was reasonable to send in 1 Para, given their reputation and training. As he puts it, the ostensible object of the security forces was to avoid confrontation. Having achieved that end, they then courted the very confrontation they had avoided through launching an arrest operation by one of the most aggressive units in the British Army which not only breached the geographic confines set by the Operation Order but failed to disengage when, as was claimed, they came under fire. No order was given to disengage and the Paras penetrated deeper into built up areas. The only logical conclusion to be drawn is that 1 Para, in penetrating up Rossville Street, were acting according to a set of instructions other than that offered in the Operation Order.

Para 95. In the events which took place on 30 January the soldiers were entitled to regard themselves as acting individually and thus entitled to fire under the terms of Rule 13 without waiting for orders. Although it is true that Support Company operated as a Company with all its officers present, in the prevailing noise and confusion it was not practicable for officers or NCOs always to control the fire of individual soldiers. The soldiers' training certainly required them to act individually in such circumstances and no breach of discipline was thereby involved. I have already stated that in my view the initial firing by civilians in the courtyard of Rossville Flats was not heavy; but the immediate response of the soldiers produced a brisk and noisy engagement which must have had its effect on troops and civilians in Rossville Street. Civilian, as well as Army, evidence made it clear that there was a substantial number of civilians in the area who were armed with firearms. I would not be surprised if in the relevant half hour as many rounds were fired at the troops as were fired by them. The soldiers escaped injury by reason of their superior field-craft and training.

269. The new material clearly undermines any suggestion that the soldiers came under any sustained gunfire as claimed by Lord Widgery. Even without this evidence, Lord Widgery's claim that the soldiers escaped injury by reason of superior field-craft and training is difficult to sustain. Since no gunmen were discovered amongst the dead, the wounded or the arrested, did these civilian gunmen also possess superior field-craft and training in managing to avoid the aimed shots of the paratroopers? Were the paratroopers superior merely to the civilians who were killed and injured? This paragraph is revealed by the new material to be close to fiction; it purports to describe an event that never happened - an intense exchange of gunfire between 1 Para and gunmen operating amongst innocent civilians.

Para 96. When the shooting began every soldier was looking for a gunman and he was his own judge of whether he had identified one or not. I have the explanation on oath of every soldier who fired for every round for which he was required to account. Were they truthfully recounting the facts as they saw them? If so, did those facts justify the action taken?

### **The Widgery Report and the 'New' Material**

270. The new material, particularly the report of Prof. Walsh, demonstrates the unreliability of the testimony of the soldiers. The civilian eyewitness evidence, combined with the Para AA document, undermines the claim that the soldiers were looking for gunmen. Taken together, the new material undermines Lord Widgery's assertion to have had a credible account of every round shot by the soldiers. By implication, therefore, it appears that not only were soldiers not telling the truth about how many rounds they fired and why, but they were evidently concealing the actions they had undertaken in expending the ammunition for which they did not account to the Tribunal.

Para 97. Those accustomed to listening to witnesses could not fail to be impressed by the demeanour of the soldiers of 1 Para. They gave their evidence with confidence and without hesitation or prevarication and withstood a rigorous cross-examination without contradicting themselves or each other. With one or two exceptions I accept that they were telling the truth as they remembered it. But did they take sufficient care before firing and was their conduct justified even if the circumstances were as they described them?

271. Since the Tribunal staff was aware of the inaccuracies, inconsistencies and alterations made by the soldiers to the statements they had variously made to the Military Police, Treasury Solicitors and the Inquiry and since the Tribunal staff was equally aware of the substance of the statements submitted by the NICRA/NCCL, it is very difficult to explain how Lord Widgery could have made this assertion. If he was unaware of the information available to the Tribunal staff, then he was ipso facto not qualified to make any judgements on the events he was charged with investigating. If he was aware of them, his confidence in the testimony of the men of 1 Para can only be considered a triumph of loyalty over the obvious.

Para 98. There were infringements of the rules of the Yellow Card. Lieutenant N fired three rounds over the heads of a threatening crowd and dispersed it. Corporal P did likewise. Soldier T, on the authority of Sergeant O, fired at a person whom he believed to be throwing acid bombs and Soldier V said he fired on a petrol bomber. Although these actions were not authorised by the Yellow Card they do not seem to point to a breakdown in discipline or to require censure. Indeed in three of the four cases it could be held that the person firing was, as the senior officer or NCO on the spot, the person entitled to give orders for such firing.

Para 99. Grounds put forward for identifying gunmen at windows were sometimes flimsy.....

Para 100. The identification of supposed nail bombers was equally nebulous—perhaps necessarily so. A nail bomb looks very much like half a brick.....

Para 101. Even assuming a legitimate target, the number of rounds fired was sometimes excessive.....

### The Widgery Report and the 'New' Material

272. The inadequacy of these paragraphs can only be gauged against the background painted by the civilian eyewitnesses. To suggest that there were but a handful of infringements of the Yellow Card, when Lord Widgery had failed to establish that any of the dead or wounded possessed weapons much less were threatening to use them, was patently absurd. The use of nail bombs was never corroborated by any reliable source of evidence and none were recovered in the killing zones. Lord Widgery's precision as to how they are thrown is not only redundant but absurdly specific. No firearm was recovered from the dead, wounded or arrested.

Para 102. Nevertheless in the majority of cases the soldier gave an explanation which, if true, justified his action..... In the main I accept these accounts as a faithful reflection of the soldier's recollection of the incident; but there is no simple way of deciding whether his judgment was at fault or whether his decision was conscientiously made.....where soldiers are required to engage gunmen who are in close proximity to innocent civilians they are set an impossible task. Either they must go all out for the gunmen, in which case the innocent suffer; or they must put the safety of the innocent first, in which case many gunmen will escape and the risk to themselves will be increased. The only unit whose attitude to this problem I have examined is 1 Para. Other units may or may not be the same. In 1 Para the soldiers are trained to go for the gunmen and make their decisions quickly. In these circumstances it is not remarkable that mistakes were made and some innocent civilians hit.

273. Lord Widgery's failure to come to a conclusion on the core issue of whether or not 1 Para acted within the law, despite his professed faith in the reliability of the soldiers' statements, would appear to be an abrogation of the very remit under which he was appointed, as well as an astonishing act of omission from a man at the pinnacle of his profession and occupying the pre-eminent legal office of Lord Chief Justice.

Para 103. In reaching these conclusions I have not been unmindful of the numerous allegations of misconduct by individual soldiers which were made in the course of the evidence. I considered that allegations of brutality by the soldiers in the course of making arrests were outside my terms of reference. There is no doubt that people who resisted or tried to avoid arrest were apt to be roughly handled; but whether excessive force was used is something which I have not investigated.

274. The nature and extent of the allegations which Lord Widgery considered beyond his remit and therefore, apparently, beyond official accountability can be judged by the following eyewitness accounts, all of which were given to the Irish Government in 1972. A particularly striking feature of the behaviour of the soldiers was their obstruction of those attempting to render medical assistance and the specific instances of brutality shown toward uniformed members of the Order of Malta.

- As I arrived in William Street I saw the man who had been shot in the shoulder leaning with his hands against the wall. He half turned and was batoned on the head by a soldier...

- I looked back and saw two soldiers severely beat an elderly grey-haired man...

### The Widgery Report and the 'New' Material

- They were squealing and shouting and they said "Move you Irish bastard". They marched [us] in single file with our hands on our heads through an opening. As we reached the opening they shot a fellow with a rubber bullet in the leg, from about two yards...

- A Knight of Malta (female) ran towards them [three shot men], more shots rang out and she had to dive on her mouth and nose...

- ... While one soldier was attacking a middle-aged man, a member of the Order of Malta attempted to intervene. The soldier turned and struck the first-aid man (dressed in the usual grey uniform) first with the butt of the rifle on both body and face and kicked him. The Order of Malta man collapsed and disappeared from view behind a wall...

- I entered the (High Flats) courtyard with the rest of the fleeing crowd, a Humber A.C. entered and knocked down a youth.... I then saw a paratrooper grab an old man who had been left behind by the crowd and flail him about the head with an SLR. I shouted to him and ordered him to stop. He threw the old man to one side, took up a firing position and prepared to fire. I stood stock still and then was hit by a rifle butt in the chest and knocked to one side and as I fell I heard a shot close to my left ear. I was stunned... At the corner of Francis Street, there were paratroopers who called us down. We were roughly searched and generally insulted when I said I was in the Order of Malta, the one in charge said "Those bastards!" We were then taken... to an armoured car where we got more rough treatment. Every time they heard of another death, they came to me and said: "that's another fucker you won't be able to help out".... We were driven to the R.N. Maintenance Base... taken out of the lorry... and made to run a gauntlet of Paras who beat me with their rifles... The RUC and Coldstream Guards inside the buildings must have known this was going on... Under the noses of the RUC and the other guards, they [the Paras] insulted, punched and generally harassed the prisoners.

- We were driven a short distance to the Strand Road Naval Yard. When the lorry stopped two soldiers at the back of it took us individually and threw us off the back of the lorry. I landed between two lines of soldiers and I had to run between them while they struck wildly at me with their batons and boots... Once inside we were made to stand for about three hours with hands on a wall...

- I saw one boy about 15 or 16 years fall, blood gushing down his leg... a bald headed civilian ran to pick him up but before he got touching him, a soldier came running at him and using the butt of a rifle, struck the man three or four times over the head....

### The Widgery Report and the 'New' Material

- Knights of Malta were trying to bring out the bodies to an ambulance. When they got out into the open, the army fired....

- ... several attempts had already been made by people and myself, carrying and waving white handkerchiefs, to get to the fallen men, but these earlier attempts were repulsed by rifle fire...

- I said to a paratrooper there were seven innocent people shot down in cold blood, he cocked his rifle at me and threatened to shoot me and make me the eighth. When he cocked the rifle, he put my children into hysterics and while my children were upset the Paras started to cheer and crack obscenity...

- ... At Rossville Flats, an elderly man was thrown against the wall and beaten with a rifle and batons by three soldiers. Whilst the first aid man and priest was administering to a man who had been shot, the first aid man showed a white flag and he had to dive to the ground as the army shot at him. He then dipped the hankie in the man's blood and showed it but the army continued to fire...

- I witnessed a colleague being fired on by the army as she went to the aid of a wounded man. A man who followed behind her was shot and wounded.

- "We waved our hands to show the troops that we were First Aiders. When we got as far as a Saracen which was parked in Chamberlain St., we were told that we were going to be searched. Sgt. Alice Long [First Aider] said, "For Christ's sake, there are 3 men lying dead in the Square". The officer replied, "So what! Before nightfall there'll be many more dead". At this, he began laughing. One of the soldiers said, "Hip, Hip, Hooray", and he began laughing. At this stage we were put up against the wall with guns pointed at us. Sgt. Long said: "We need an ambulance", and the officer said "There's an ambulance", and he pointed to an empty ambulance. He started laughing again. I went to the back of the ambulance, looking for the driver who wasn't to be found.... The officer pointed to the far end of Chamberlain St... Sgt. Long and myself ran to the end of Chamberlain St. looking for the ambulance driver... It is my belief that the officer sent us on a wild goose chase...

Para 104. There have also been numerous allegations of soldiers firing carelessly from the hip or shooting deliberately at individuals who were clearly unarmed. These were all isolated allegations in which the soldier was not identified and which I could not investigate further. If, and insofar as, such incidents occurred the soldier in question must have accounted for the rounds fired by giving some different and lying story of how they were expended. Though such a possibility cannot be excluded, in general the accounts given by the soldiers of the circumstances in which they fired and the reasons why they did so were, in my opinion, truthful.

### The Widgery Report and the 'New' Material

275. The eyewitness accounts, the report of Prof. Walsh and the statement of Para AA, demonstrate that the allegations referred to here by Lord Widgery were common to every death and injury that occurred and that those allegations were well founded in evidence available to Lord Widgery at the time. The allegations - based on evidence provided by eyewitnesses and photographs and by medical, ballistics and forensic sources - were anything but isolated: they were uniform and mutually corroborating. The new material further demonstrates that the possibility of implicated soldiers lying, so cavalierly dismissed, was not only real but self-evident from the testimony of civilian witnesses, from the pattern of discrepancies and alterations in the written statements of the soldiers and from the sheer inability to match the claims the soldiers had made to the facts as they were known. Lord Widgery chose to believe the soldiers' testimony in the face of reason, logic and the mountain of overwhelming oral, written, photographic, ballistics, forensic and medical evidence.

276. A notable feature of Lord Widgery's conclusions is that they could not be readily matched with the accounts and findings reached in the course of his Report. A dramatically different set of conclusions could have been set out based on the findings, such as they were. On the basis of his own Report, Lord Widgery could have found that a number of identifiable soldiers had shot dead one or more civilians without justification, that all of the individuals were shot dead contrary to the Yellow Card, that it was an error of judgement to have used 1 Para and that it was courting disaster to have launched the arrest operation.

277. Beyond this, the new material has completely and fatally undermined the Widgery Report, its findings and conclusions. As with the Report in general, Lord Widgery's conclusions emerge as inadequate, inaccurate, unfair, wholly unwarranted and wilfully misleading.

1. There would have been no deaths in Londonderry on 30 January if those who organised the illegal march had not thereby created a highly dangerous situation in which a clash between demonstrators and the security forces was almost inevitable.

278. Lord Widgery never sought to determine the intentions and plans of the march organisers and was not therefore entitled or positioned to render this unequivocal judgement. Had he done so, he would have discovered that efforts had been made to ensure that the march was free of the presence of IRA gunmen. No weapons were recovered from the dead, wounded or arrested. That the organisers of the march were successful in this is patently attested to by the failure of any significant or effective IRA presence to emerge in the face of the sustained and prolonged use of lethal force by the British Army against unarmed civilians. As the new material confirms, the responsibility for the deaths and injuries sustained on Bloody Sunday lay in the first instance and throughout the day with the British Army.

2. The decision to contain the march within the Bogside and Creggan had been opposed by the Chief Superintendent of Police in Londonderry but was fully justified by events and was successfully carried out.

### The Widgery Report and the 'New' Material

279. It would have been more accurate to conclude that the actions of the marchers, in turning away from the disturbances at the junction of Rossville and William Streets, and complying with their prior commitments to avoid confrontation, completely validated the judgement of the Chief Superintendent.

3. If the Army had persisted in its "low key" attitude and had not launched a large scale operation to arrest hooligans the day might have passed off without serious incident.

280. The new material calls into question the relevance of the arrest operation as a sufficient explanation for the actions of the British Army. Rather, it points to an account of the actions of 1 Para which is directly at odds with the Operation Order for the day and for which a satisfactory explanation has yet to be offered.

4. The intention of the senior Army officers to use 1 Para as an arrest force and not for other offensive purposes was sincere.

281. The facts as they were known, particularly the reputation of the Paras and their characterisation in the Widgery Report itself, combined with the accounts of their actions and behaviour in the new material render this conclusion wholly unsound and misleading.

5. An arrest operation carried out in Battalion strength in circumstances in which the troops were likely to come under fire involved hazard to civilians in the area which Commander 8 Brigade may have under-estimated.

282. As has been noted in the foregoing, there is a serious question mark over Brigadier McLellan's role in and culpability for the actions of 1 Para. Until that is resolved, this conclusion is unfounded. Furthermore, it is clear that effective steps had been taken by the march organisers to ensure that there would be no significant IRA presence during the march, that these assurances were accepted by the RUC and were made known to and apparently accepted by Brigadier McLellan.

6. The order to launch the arrest operation was given by Commander 8 Brigade. The tactical details were properly left to CO 1 Para who did not exceed his orders. In view of the experience of the unit in operations of this kind it was not necessary for CO 1 Para to give orders in greater detail than he did.

283. There is no credible proof that Brigadier McLellan gave the order or that any order was in fact given to mount an arrest operation as envisaged in the Operation Order. There is ample evidence, not least the deaths and injuries inflicted on innocent civilians, that 1 Para exceeded the Operation Order. Some of what happened on the ground has been clarified by the emergence of the new material: why it happened remains an open question.

7. When the vehicles and soldiers of Support Company appeared in Rossville Street they came under fire. Arrests were made; but in a very short time the arrest operation took second place and the soldiers turned to engage their assailants. There is no reason to suppose that the soldiers would have opened fire if they had not been fired upon first.

### The Widgery Report and the 'New' Material

284. The new material demonstrates that this is a fiction; the army did not come under fire and there was no engagement with assailants. Why the soldiers opened fire remains unknown.

8. Soldiers who identified armed gunmen fired upon them in accordance with the standing orders in the Yellow Card. Each soldier was his own judge of whether he had identified a gunman. Their training made them aggressive and quick in decision and some showed more restraint in opening fire than others. At one end of the scale some soldiers showed a high degree of responsibility; at the other, notably in Glenfada Park, firing bordered on the reckless. These distinctions reflect differences in the character and temperament of the soldiers concerned.

285. Soldiers never identified gunmen, much less engaged them. Under the law, soldiers are not the interpreters of the rules under which they operate. If their training made them aggressive and quick in decision, they should not have been used in the arrest operation. Rather than the actions of the soldiers revealing a scale of responsibility, the eyewitness accounts demonstrate a uniformity of behaviour by the soldiers. This uniformity was reflected in their choice of target - all the fatalities being men (and all of the wounded, bar one, also being men) of serviceable military age and most of them moving at the time when they were shot dead. That some of their firing simply "bordered on the reckless" in Glenfada Park is a characterisation of behaviour distinctly, not to say bizarrely, at odds with the accounts provided in the new material. This conclusion is unsustainable, inaccurate and highly misleading.

9. The standing orders contained in the Yellow Card are satisfactory. Any further restrictions on opening fire would inhibit the soldier from taking proper steps for his own safety and that of his comrades and unduly hamper the engagement of gunmen.

286. Since the instructions contained in the Yellow Card were demonstrably ignored, this opinion was moot, to say the least. This conclusion tends to add to the sense that the Report was seeking to create an impression that the actions of the British Army were characterised by military restraint and probity.

10. None of the deceased or wounded is proved to have been shot whilst handling a firearm or bomb. Some are wholly acquitted of complicity in such action; but there is a strong suspicion that some others had been firing weapons or handling bombs in the course of the afternoon and that yet others had been closely supporting them.

### **The Widgery Report and the 'New' Material**

287. The new material reveals overwhelmingly that there were no grounds for any suspicions that some of the victims or as Lord Widgery put it "some others" had been firing weapons or handling bombs and yet others were closely supporting IRA gunmen. Lord Widgery failed to demonstrate credibly that reasonable grounds existed for such a suspicion in even one case. The new material and its assessment here reveals that this conclusion was a grotesque and unjust assertion made contrary to the large body of credible evidence available at the time. Lord Widgery's conclusion was wholly unwarranted, unsustainable by the evidence then or now and an unjustified calumny against the victims. The victims suffered the double injustice of being unlawfully killed and having their reputations sullied for the purpose of exculpating the actions of those responsible for their deaths.

11. There was no general breakdown in discipline. For the most part the soldiers acted as they did because they thought their orders required it. No order and no training can ensure that a soldier will always act wisely, as well as bravely and with initiative. The individual soldier ought not to have to bear the burden of deciding whether to open fire in confusion such as prevailed on 30 January. In the conditions prevailing in Northern Ireland, however, this is often inescapable.

288. The new material indicates that no faith could be attached to the testimony and claims of the soldiers. Furthermore, it suggests that there was either a breakdown in discipline, or that soldiers were operating under a general licence of some description to operate as they did (bearing in mind that none were subject to any form of discipline), or that they were operating as part of a preconceived and coordinated plan which was not reflected in the Operation Order, or that some or all of these factors played a part in determining the soldiers' actions on Bloody Sunday. If, as Lord Widgery concluded, the soldiers followed their orders, the unresolved question of Bloody Sunday is what they thought those orders were.

## Conclusion

The Widgery Report has been the basis of the British Government's response to the events of Bloody Sunday since its publication on 18 April 1972. As a credible version of events, it has long been widely regarded as seriously flawed by many sections of opinion in Ireland and abroad. Indeed, it has been viewed by many as an attempt to present an "acceptable" official version of events, the purpose of which was not to establish the truth but to exculpate the actions of the British Army. The grounds for these suspicions were many and obvious; the highly constrained terms of reference of the Inquiry itself, the speed with which the Inquiry's proceedings were concluded, the nature of the proceedings and the manifold failures to consider the evidence either fairly or comprehensively. The most telling feature of the Widgery Report, however, was that it failed to hold any individual or agency accountable for the deaths of thirteen innocent people.

In the wake of Bloody Sunday, a clear chasm rapidly emerged between the version of events put forward by the authorities and the many accounts offered by civilian eyewitnesses. The Army offered that its soldiers had come under a sustained gun and nail-bomb attack and lists were circulated by the authorities citing the weapons allegedly found on the victims. The civilian eyewitnesses attested to a largely peaceful event, albeit with some stone throwing on the fringes, the absence of IRA gun fire, nail bombs or petrol bombs, and the sudden arrival at speed of British soldiers who opened fire immediately on debussing, shooting into the backs of fleeing civilians. Rather than resolving how such a stark, not to say startling, contrast could exist between the British Army's version of events and that of the many civilian eyewitnesses, the Widgery Report opted, contrary to what many at the time believed was the weight of the evidence, for the version put forward by those who were implicated in the deaths and injuries, particularly the soldiers of 1 Para.

The new material which emerged recently provided a fresh platform on which to mount a reconsideration of the events of Bloody Sunday and the Widgery Report. It reinforced the original doubts about the completeness of the official version of events, particularly through the strong evidence that shots were fired into the Bogside by the British Army from the vicinity of Derry Walls. It provided fresh grounds for the belief that members of 1 Para wilfully shot and killed unarmed civilians. It suggested that the approach and conduct of the Widgery Inquiry was informed by ulterior political motivation from its inception. It demonstrated that the Widgery Inquiry was inherently flawed by the failure to reveal or acknowledge that the testimony of the implicated soldiers had been altered in successive statements to the Military Police, Treasury Solicitors and to the Inquiry itself. Furthermore, it suggested an increasingly detailed - though obviously incomplete - picture of what happened on Bloody Sunday which was radically different from that offered by Lord Widgery. The new material offered little on why Bloody Sunday occurred; the answer to that question undoubtedly lies in large part in official British archives and the memory of those involved on the British side.

The material emerged from many different sources, including published contemporary eyewitness accounts, recent releases from official British archives and academic analyses of them, and ongoing investigative reports by the press and media. To draw these strands together, the Government decided to assess the new material and focus in particular on what significance could be attached to it vis-à-vis the Widgery Report. To do this effectively required a detailed analysis of the Widgery Report in which virtually every paragraph was considered afresh in light of the new material.

## Conclusion

As is evident from the foregoing assessment, it can be concluded that the Widgery Report was fundamentally flawed. It was incomplete in terms of its description of the events on the day and in terms of how those events were apparently shaped by the prior intentions and decisions of the authorities. It was a startlingly inaccurate and partisan version of events, dramatically at odds with the experiences and observations of civilian eyewitnesses. It failed to provide a credible explanation for the actions of the British Army, particularly the actions of 1 Para and of the other British Army units in and around Derry. It was inherently and apparently wilfully flawed, selective and unbalanced in its handling of the evidence to hand at the time. It effectively rejected the many hundreds of civilian testimonies submitted to it and opted instead for the unreliable accounts proffered by the implicated soldiers. Contrary to the weight of evidence and even its own findings, it exculpated the individual soldiers who used lethal force and thereby exonerated those who were responsible for their deployment and actions.

Above all it was unjust to the victims of Bloody Sunday and to those who participated in the anti-internment march that day in suggesting they had handled fire-arms or nail-bombs or were in the company of those who did. It made misleading judgements about how victims met their death. The tenacity with which these suggestions were pursued, often on flimsy or downright implausible grounds, is in marked contrast to the many points where significant and obvious questions about the soldiers' behaviour, arising from the Report's own narrative, are evaded or glossed over.

There have been many atrocities in Northern Ireland since Bloody Sunday. Other innocent victims have suffered grievously at various hands. The victims of Bloody Sunday met their fate at the hands of those whose duty it was to respect as well as uphold the rule of law. However what sets this case apart from other tragedies which might rival it in bloodshed, is not the identity of those killing or killed, or even the horrendous circumstances of the day. It is rather that the victims of Bloody Sunday suffered a second injustice, this time at the hands of Lord Widgery, the pivotal trustee of the rule of law, who sought to taint them with responsibility for their own deaths in order to exonerate, even at that great moral cost, those he found it inexpedient to blame.

The new material fatally undermines and discredits the Widgery Report. A debt of justice is owed to the victims and their relatives to set it unambiguously aside as the official version of events. It must be replaced by a clear and truthful account of events on that day, so that its poisonous legacy can be set aside and the wounds left by it can begin to be healed. Given the status and currency which was accorded to the Widgery Report, the most appropriate and convincing redress would be a new Report, based on a new independent inquiry.

The terms and powers of any new inquiry would need to be such as to inspire widespread public confidence that it would have access to all the relevant official material and otherwise enjoy full official support and cooperation, that it would operate independently, that it would investigate thoroughly and comprehensively, and would genuinely and impartially seek to establish what happened on Bloody Sunday, why it happened and those who must bear the responsibility for it.