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BEFORE THE CORONER FOR NORTHERN IRELAND

MR JOSEPH McCRISKEN

THE INQUEST TOUCHING UPON THE DEATH OF

MR BERNARD WATT

Introduction.

[1] Before I begin to deliver my findings with respect to the death of Mr Bernard Watt, who was known as Barney, I would firstly like to give appropriate thanks to Court Service and Coroners Service staff, in particular Ms Logan my investigator, and to all those who have been concerned in the preparations for this inquest. Everyone has done their best to help me and the various teams in our difficult task.

[2] This has been a long and difficult exercise and I wish to pay tribute to the professional and dedicated way in which each of the legal teams, including, of course my own, have gone about their task. It has been to the highest standard.

[3] I wish to recognise the patience and strength of the Watt family. They have waited 46 years for a new inquest into the circumstances of Barney's death and it is clear to me that they, and in particular Teresa Watt, have devoted immense energy and emotion to achieving that end. I hope that they consider these findings to be the end of their long journey.

Relevant law.

[4] Rule 15 of the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963 governs the matters to which inquests shall be directed. This rule provides that:

“The proceedings and evidence of an inquest shall be directed solely to ascertaining the following matters, namely:

- (a) Who the deceased was;*
- (b) How, when and where the deceased came by his death;*
- (c) ... The particulars for the time being required by the Births and Deaths Registration (Northern Ireland) Order 1976 to be registered concerning the death.”*

[5] Rule 16 goes on to provide that:

“Neither the Coroner nor the jury shall express any opinion on questions of civil or criminal liability ...”

[6] In this particular inquest there is no difficulty in determining who the deceased was; when and where he came by his death or in recording the particulars required by the 1976 Order.

[7] The substantial issue to be considered by the inquest relates to “how” the deceased came by his death. In this inquest it is accepted that the death was caused by an agent of the State and that being so an examination of “how” the death was

caused must comply with the procedural requirements of article 2 of the European Convention on Human Rights. When article 2 is engaged a coroner must ask “how and in what circumstances the deceased came by his death.” Article 2 engagement does not require an examination of the broad circumstances of the death, nor does it require an investigation out-with that provided for by the law.

[8] In accordance with the law an inquest cannot attribute blame or make findings of civil or criminal liability. An inquest in Northern Ireland cannot return a finding of unlawful killing. An inquest is a fact-finding inquiry and not a method of apportioning guilt.

[9] In Re Jordan [2014] NIQB 11 Stephens J said that:

“An inquest which does not have the capacity to reach a verdict ‘leading to a determination of whether the force used ... was or was not justified’ would not comply with the requirement of Article 2.”

[10] The abundance of case law on this point makes it clear that in considering how and in what circumstances a deceased came by his death an inquest must be capable of leading to a determination of whether the use of lethal force was justified.

[11] In relation to the standard of proof in an inquest, any fact has to be proved to the civil standard, that is, the balance of probabilities.

Delay

[12] Some of the witnesses who gave evidence at the inquest did so without the benefit of having prepared a statement proximate to the date of death. Mrs Watt, Mr Mailey, Mr Murphy, Mrs McAteer and Mr McLaughlin all provided their first

statements to the Coroner's investigator within the last 12 months. Mr Mailey and Mrs Watt had also provided an account in 2003 to the authors of a book. Neither could recall having done so. In reaching my narrative findings I have taken into account the way in which the passage of time may have created difficulties for the witnesses in remembering events. I appreciate that memories can fade with the passage of time, and that recollections may change, or may become confused, as to what did or did not happen at a particular time. Horner J, delivering his findings into the death of Patrick Pearse Jordan [2016] NICoroner1 commented on the difficulties caused by delay at paragraph 76;

"It is well recognised that delay of itself can cause injustice. This is because human recollection is fallible and it becomes, in general, more unreliable with the passage of time. This has been remarked upon in countless judgments. Any reasonable person knows that the separate recollections given today of an incident 25 years ago by two observers, no matter how vivid the happening, are likely to be very different. Further these recollections are likely to be very different from any recorded at the time. It is a universal truth recognised by many authors..."

[13] In Birkett v James [1978] AC 297 in the context of a civil case of alleged want of prosecution Lord Salmon said:

"Witnesses' recollections grow dim with the passage of time and the evidence of honest men differs sharply on the relevant facts. In some cases it is impossible for justice to be done because of the extreme difficulty in deciding which version of the facts is to be preferred."

[14] In this inquest over 46 years have passed since the events which are under detailed consideration took place. The passage of such a period of time is bound to have affected the recollections of those who witnessed and participated in the events of that fateful day 5 February 1971. My findings recognise the weaknesses and difficulties that face any witness trying to recall accurately what happened almost

half a century ago. It is not possible to over-estimate the difficulty in relying on sworn testimony in a search for the truth at a remove of 46 years from the event to which it relates. I also recognise that the accounts provided by the soldiers have not been capable of proper assessment because those soldiers have not been traced and did not give oral evidence at the inquest.

Background

[15] The original inquest into Barney's death took place on 1st July 1971 in the Crumlin Road Courthouse before the Coroner Mr. Elliott sitting with a jury. An open verdict was recorded. The Watt family always disputed the evidence presented at this inquest and over recent years have sought to challenge the original verdict.

[16] The Historical Enquiries Team carried out, in my view, an effective new investigation into the circumstances of Barney's death and reported in 2011. Following a request from the Watt family, on 9th May 2012 the Attorney General for Northern Ireland made a direction pursuant to section 14(1) of the Coroners Act (Northern Ireland) 1959 that a new inquest be held into Barney's death.

Narrative findings

[17] I have set out my narrative findings below and these will appear on the Form 21 and Form 22 documents. My findings are not intended to be a detailed or lengthy discussion or summary of the evidence heard at inquest, that is not what the relevant law requires me to do.

[18] Bernard Watt was born on 13th February 1943 and was aged 27 at the time of his death. He was known to his friends and family as Barney. He was married to Teresa

and they lived together in Hooker Street, in the Ardoyne area of Belfast. In the months before his death Barney had been working in Britain but returned home to Belfast over the Christmas period in 1970-71. Barney was described to me as a hard-working man who was good fun to be around. He seemed to be an individual who had an infectious personality.

[19] The year of Barney's death, 1971, was a time of considerable disruption on the streets of Northern Ireland with violent attacks on civilians, police officers and military personnel. The period of Northern Ireland's history that we now refer to as, 'The Troubles', had been ongoing for more than 2 years. British Army personnel had been deployed onto the streets since 1969.

[20] In the days before Barney's death there had been numerous shootings in and around Belfast. On 4th February 1971 a joint army/police operation resulted in 24 houses being searched in the Ardoyne area. These searches provoked demonstrations from some local residents who took to the streets. One such demonstration took place in Butler Street, which was in the Ardoyne area, just off the Crumlin Road.

[21] On the evening of 5th February 1971 Barney left home at around 8.30pm to go to the Ardoyne League Club to meet friends for a drink. Mr Michael Mailey was one of those friends and the inquest heard evidence from him. After some drinks Mr Mailey and Barney left to go to the Pigeon Club, which was close by, between 10-11.00pm. At around 10pm Joseph Parker, Barney's father-in-law saw him at a street corner in Hooker Street (close to Butler Street) with a group of about 20 other men. Barney and Mr Mailey stayed in the Pigeon Club where they had some further alcoholic drinks for between 45 minutes and 1 hour.

[22] While they were there, someone shouted that there was rioting on 'the corner', which was the corner of Butler Street and Chatham Street. Barney left, to join the riot, but Mr Mailey stayed to use the toilet. He then followed Barney out of the Pigeon Club toward the riot. There was discussion at the inquest about Barney's past criminal record, for disorderly behaviour and malicious damage, and previous times when he had joined riots. I am satisfied that Barney had taken part in riots previously and on the 5th February was a willing participant in the riot which was taking place in the vicinity of Butler Street. Mrs Watt told the inquest that if there was rioting taking place Barney would have taken part. Barney left the Pigeon Club significantly intoxicated (at post mortem he had a blood alcohol concentration of 233mg) with the intention of joining the riot.

[23] At around that time, Mrs Margaret Ann McAteer (then known as Rita McNally) and her then boyfriend Mr Patrick Murphy were making their way home after an evening in Belfast City Centre. They gave evidence at the inquest. They described rioting taking place at the junction of Elmfield Street and Butler Street with a crowd of over 20 people throwing objects at a British Army Saracen, or armoured vehicle. Mr Murphy described seeing two men with hoods over the heads approaching a Saracen which was parked on Butler Street. One of the men produced a nail bomb from pocket and the other man lit it. The first man then rolled the nail bomb under the Saracen. The nail bomb exploded and the Saracen burst into flames. While the Saracen was still burning they said they heard shots being fired. Neither Mrs McAteer nor Mr Murphy saw who fired the shots but Mr Murphy was of the opinion that the shots had come from a high velocity rifle.

[24] The inquest considered statements that were made in 1971 to the Royal Military Police by Major 'A', Soldier 'B', Sergeant 'C' and Corporal 'D'. Despite significant efforts by the Ministry of Defence it was not possible to identify or trace any of these soldiers.

[25] I am satisfied that just after 11pm on 5 February 1971 28 military personnel and 4 armoured vehicles or Saracens, under the command of Major A deployed from Flax Street military base in Belfast. The purpose of the deployment was to disperse and arrest rioters in the Butler Street area of Ardoyne. When the military vehicles reached Butler Street the area was in darkness. No streetlights were illuminated. A crowd of people between 17 and 22 years of age were present. It is likely, in my view, that Barney Watt joined this crowd at some point. A car seat was set alight by members of the crowd and placed in the middle of the Crumlin Road.

[26] At approximately 11.30pm the military vehicles drove down Butler Street towards the crowd. The military personnel had not come under attack at this juncture. All four armoured vehicles then moved at speed down Butler Street towards the crowd. The vehicles stopped at the junction with Chatham Street and military personnel deployed as "snatch squads" to effect arrests. When the military personnel exited the vehicles the crowd began to attack by throwing stones and other missiles including petrol bombs. The nail bomb described by Mr Murphy then exploded under the Saracen.

[27] The version of events, as to what happened next, provided by the military personnel was contested at inquest.

[28] Soldier B had been in one of the armoured cars and deployed onto the Crumlin Road on foot after the Saracen had been set alight. From his position he saw a man come from Chatham Street, which was to his right. He described the man as being 5'8" in height, stockily built, with dark hair which was untidy. This man was wearing a white shirt and dark suit. The man also had an oblong metal object in his hand. Soldier B alerted Soldiers C and D to the presence of this man. The man

reappeared a short time later and was about to throw the object when Soldier B fired on him. His round missed the man and instead struck a wall. He then ordered 'C' and 'D' to fire at this man if he re-appeared. When the man reappeared the object looked like it had been lit. Soldier B subsequently fired and heard firing from C and D. He said that the man bent at the middle and fell face down onto the ground. His legs were out of sight in Chatham Street. He had been blown some 6 or 7 feet by the explosion of the object he threw.

[29] Sergeant C's statement details how he fired at the same man who was in the act of throwing an object. Sergeant C said that the man fell to the ground and as he did so the object he had in his hand exploded and blew him into Chatham Street so that only the upper half of his body was visible.

[30] Corporal D fired an initial round from his high velocity rifle at a man holding an oblong object that he appeared to be about to throw. Corporal D did not see what happened to that round but said that shortly after, the man again appeared from the right hand side of Chatham Street. He had something in his hand which had a spluttering light coming from it as if a fuse were alight. He aimed at the central area of the man's body and fired as the man commenced to swing his arm forward in a throw. He saw the man spin slightly. Corporal D then said that the thing he had in his hand flew to one side and exploded close to the burning vehicle. The man was blown to one side as he fell to the ground and was later dragged into Chatham Street.

[31] Mrs McAteer told the inquest that she saw Barney's body close to the junction of Chatham Street and Butler Street. He was lying face down and a person was in the process of covering the body with a sheet. Mr McLaughlin told the inquest that he saw Barney stumbling down Chatham Street. He gave the appearance of having

been shot already and that he shouted “you haven’t killed me yet you bastards” before being shot as he was holding his hands in the air facing the direction of the burning Saracen. I can discount almost all of the account provided by Mr McLaughlin as being unreliable. Although Mr McLaughlin seems to genuinely believe this memory to be accurate, other evidence given at the inquest shows that this memory is not an accurate reflection of what occurred on 5 February 1971. I can conclude without much hesitation that Barney was not shot in the manner described by Mr McLaughlin. It is my view that there were no military personnel present in Butler or Chatham Street who could have opened fire on Barney at the location described by Mr McLaughlin. I consider it highly likely that Barney was shot by a soldier who was positioned on the Crumlin Road looking down Butler Street. He was not brought into a house but rather his body lay initially close to the position described by Mrs McAteer before being carried to Brompton Park.

[32] At around 11.40pm ambulance men Peter Weir and Paul O’Connor, Order of Malta volunteers, received a call to attend upon a casualty at Brompton Park. On their arrival at the junction of Berwick Road and Brompton Park Barney Watt was carried to them and placed in the back of their ambulance. Mr Mailey saw Barney’s body as it was being carried to the ambulance on Brompton Park. Mr. Weir formed the opinion that Barney was dead and that he appeared to have been shot in the chest and buttock. They took him to the Mater Hospital, Belfast. Dr Michael O’Hare, the House Officer on duty in the Casualty Department examined Barney at 12.15am on 6th February 1971 and confirmed that he was dead.

[33] A post-mortem examination took place on the 6th February 1971. The report from the Assistant State Pathologist, Dr Press, opined that Barney was struck by 2 bullets and sustained 6 penetrating wounds which could be grouped in pairs. According to Dr Press, Barney died as a result of a gunshot wound to the chest. Dr Press did not find any evidence of a blast from a bomb.

[34] Professor Jack Crane, former State Pathologist for Northern Ireland, gave evidence at the new inquest and also provided a medico-legal report commenting on the original post-mortem findings and the evidence given at the original inquest by Dr Press.

[35] Professor Crane concluded that Barney had died from a gunshot wound to the chest. A high velocity bullet had struck the left side of his chest and had exited from a wound on the left side of the front of the chest. This bullet had lacerated his heart and left lung causing massive bleeding into the left chest cavity. Barney had also been struck on the left buttock and this bullet had passed from left to right badly fracturing the right thigh bone before exiting from a wound on the right thigh.

[36] Professor Crane told the inquest that the versions of events described by the soldiers were not credible. It was his opinion that there was no pathological evidence to support the contention that Barney was throwing any sort of explosive device when he was shot.

[37] In support of his opinion Professor Crane said that Barney had no injuries which would indicate that he was close to an explosive device when it detonated or that he had been thrown the six or so feet described by the soldiers after the device had detonated. Professor Crane told the inquest that based upon his extensive experience of blast injuries, a person holding an explosive device or in close proximity to one would not be blown any distance but would instead sustain blast type injuries to the body. Barney Watt did not have any injuries to his body nor did his clothing have any damage consistent with a blast. Professor Crane also discounted the assertion that high velocity bullets could have caused Barney to have been blown from his feet as described by the soldiers.

[38] There are many questions relating to the circumstances of the death of Barney Watt which will remain unanswered following this inquest. Assessing evidence after a gap of 46 years is an almost impossible exercise. It is not appropriate for me to speculate on possible scenarios but rather I consider that I should focus on matters of which I can be satisfied to the required standard of proof, that is, on the balance of probabilities.

[39] I am satisfied, based upon the evidence available to me at inquest, that Barney Watt was not a member of any paramilitary organisation when he died. The fact that his coffin was covered in an Irish tricolour does not convince me that he had any connection to paramilitaries.

[40] I am satisfied that Barney Watt was shot and killed by a high velocity bullet shot from a military issue self loading rifle in the possession of a member of the company commanded by Major A. This soldier was positioned on the Crumlin Road and Barney Watt was positioned in Butler Street close to its junction with Chatham Street. I cannot say which soldier fired the fatal shot or shots.

[41] I am not able to say exactly what Barney was doing in the moments before he was shot but I am satisfied, based upon the evidence available to me at inquest, that Barney Watt was not the man described by the soldiers holding the explosive device.

[42] Based upon the evidence presented at inquest the use of lethal force against Barney Watt on 5 February 1971 by military personnel was not justified.

J McCrisken - 27 April 2017.