



House of Commons
Northern Ireland Affairs
Committee

Bloody Sunday Inquiry

Oral and written evidence

Wednesday 13 October 2010

The Rt Hon The Lord Saville of Newdigate

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The Northern Ireland Affairs Committee

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Oral evidence

Taken before the Northern Ireland Affairs Committee on Wednesday 13 October 2010

Members present:

Mr Laurence Robertson (Chair)

David Simpson

Mel Stride

Naomi Long

Gavin Williamson

Mr Joe Benton

Oliver Colvile

Dr Alasdair McDonnell

Jack Lopresti

Examination of Witness

Witness: **The Rt Hon The Lord Saville of Newdigate**, Chair of the Bloody Sunday Inquiry.

Q1 Chair: Right, I will start. Good afternoon, and sorry for the delay. As you probably gathered, we had a vote in the Commons. I hope we will not be interrupted again, but I cannot promise it. If we are interrupted again, I will suspend the Committee for up to 15 minutes. I am afraid that that is one of the hazards of this place.

Could I welcome Lord Saville to the Committee? We are very pleased that you have been able to join us. We have a number of issues to go through with you, but I do want to welcome you. Perhaps I could start just by asking you a sort of general question about inquiries per se. Obviously, there is always a suspicion with any inquiry as to its independence, not just related to Northern Ireland but generally. How did you address that issue? How confident were you that you would be seen as an independent inquiry?

Lord Saville: Well, when I became a judge, I took an oath to be impartial. When I agreed to do the inquiry, I made it quite clear—not that I really needed to—to the Lord Chancellor that I would be conducting an inquiry wholly independent of Government or, indeed, any other faction that sought to push us in one direction or another, and I did not find any difficulty in conducting an independent inquiry. I would like to put on the record that, throughout the time of the inquiry, the Government at no stage indicated, in any shape, manner or form, what conclusions we should reach or how we should reach them. I was left with my two colleagues to look at the evidence and to reach the conclusions, which you will now find in the report.

Q2 Chair: But given these days of leaks, it was remarkably leak-proof. How did you manage to achieve that? Given that it went on over so many years, we were all expecting there to be some leak here or there, and it did not happen. How did you achieve that, when so many other people do not?

Lord Saville: We had a considerable amount of security in the inquiry offices, and I think credit is due to the secretary of the inquiry, Elizabeth Johnson, who, in fact, is here this afternoon, and the others in my team, who did manage to keep it entirely secure-proof, and then, in turn, members of the Northern Ireland Office, when we handed it over for safekeeping before the election. So, I was pleased;

these things can leak and I was very pleased that our report did not.¹

Chair: Excellent, well done. Can I perhaps turn to the witnesses and the evidence? I would like to ask David Simpson to pose his questions.

Q3 David Simpson: Thank you, Chairman. You are very welcome, Lord Saville, to the Committee. In relation to the evidence side of things, how big of an impediment was it when you were trying to gather evidence into the events that occurred 26 years ago or thereabouts? What sort of difficulties did you encounter in tracing individuals themselves to give evidence?

Lord Saville: Well, there are a number of aspects to that. The first was the question of the collection of evidence immediately after we were appointed. That took a long time, and it necessarily had to take a long time, for a number of reasons. So far as soldiers were concerned, the Ministry of Defence had lost touch with many of the soldiers who had left the forces. They did what they could but, in the end, we had to employ private inquiry agents to trace the soldiers, and we were able, over a period of time, to trace a very large number of them. Many of them had nothing useful to add, but a substantially large number did and, of course, we then took statements from them. Now, the same really happened with civilians. It is difficult to remember now, but if you cast your mind back to 1998 when we started, when we were appointed, we were met with a very substantial degree of mistrust and suspicion by the people of Derry, because, of course, they had had the experience of the Widgery inquiry, and they regarded us as a “Brit” inquiry and, therefore, by definition, in their minds, untrustworthy. We had to win over their trust and, here, I would like to pay tribute to Peter Jones, senior partner of Eversheds, the firm of solicitors. We had a beauty contest and selected that firm as the firm to take statements for us over in Northern Ireland, and, in the space of three months, Peter Jones and his team won over the people of Derry and the surrounding area, and persuaded them—correctly, as I hope—that this inquiry was going to be an attempt to produce a completely independent and impartial look at what

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happened on that day. A great deal of that winning-over was done by Peter Jones, and I applaud him for it.

Q4 David Simpson: Further to that, in relation to the whole aspect of the evidence, it seems from the report—from what I have read of it—that most of the evidence in the inquiry focused in on the events of the day; what happened on that day. If we look at other inquiries, and we use the parallel of the Billy Wright inquiry, where there was a sequence of events and there was, in the report, details leading up to that day. Do you believe that your remit as regards the evidence was the correct one in focusing in so tightly on the events of the day, rather than what led up to it?

Lord Saville: Well, with respect, we did not focus exclusively on the events of the day. If you look at the report, we provide an outline of the history of Northern Ireland from the time it was founded. We then—

David Simpson: I cannot remember.

Lord Saville:—as the years go by, get more detailed. The period up to the 1960s—pretty general stuff, just showing what the constitutional position was in Northern Ireland at that time. In 1969, civil rights started round the world, and we deal with that. We deal with the civil rights movements in Northern Ireland at that time. You then get to 1971. In August 1971, internment without trial was introduced, and we start looking in great detail at what happened in that month, in the preceding months, and, as we get closer to Bloody Sunday, in more and more detail, so that by the time you are talking about the events in January 1972, you are down to things that were happening on a daily basis, and sometimes an hourly basis.

And so, with respect, we have put in the entire background as we thought relevant to the events of the day. For example, I did see in the press, because it is not in the principal conclusions in the report itself, that we did not say anything about the police officers that were shot three days before. We do: we say quite a lot about them, and you can find that if you look in the chapters in the report that cover those days and weeks before Bloody Sunday. So, the answer is that several hundred pages of this report—in fact, possibly 1,000 pages—are devoted to what happened before the day.

Q5 Chair: How difficult was it? Mr Simpson has asked about getting evidence for events that were 26 or so years ago. How difficult was it, though, looking at events in the context of 1972, when you were actually looking at them 30 years later, 40 years later?

Lord Saville: Well, of course, if you are trying to get people to remember what happened 38 years ago, because we are all human beings, our memories are fallible—not through dishonesty, but memories become dim and distorted throughout the years. With an event like Bloody Sunday, where emotions are running high, emotions and objectivity are somewhat ill bedfellows. So, we had all these considerations in mind, but what we also had was a huge amount of material in the form of witness statements, tape-recordings and journalists' reports from the day and

immediately afterwards, and so we were able to build on those. This is one of the things that took so long. We knew that a lady called Ms Keville, who was a civil rights worker, had come from New York to attend a civil rights march, and we knew that she had, immediately after the shootings, gone round the city with her tape recorder, saying to people, "Tell us what you heard and saw." It took us two years to find those tapes, but we found them in America. So, when witnesses came to the inquiry, we took them downstairs to what was called our witness suite, and there, if it was one of the people who had talked to Ms Keville, we said, "Put the headphones on. Is that you?"

There were some marvellous moments, because these people had forgotten that they had talked to Ms Keville, so they listened to their voices from 30 years ago. It was quite emotional sometimes—"Yes, I now remember. I did say that." So, we had a colossal amount of contemporary material, both on the civilian side and, indeed, on the soldiers' and politicians' side. The difficulty of people's memories becoming dim and distorted was there throughout, and we had to take it into account, but we did have a great deal of almost contemporary material on which to work.

Q6 Mel Stride: Thank you for coming, Lord Saville. Can I just ask: when those recordings were played back to those individuals, did it generally serve to reinforce their recollections or did it actually put doubt in their minds as to their current perceptions being correct?

Lord Saville: There is no simple answer to that. In most cases, it reinforced what they had already told us, so that, despite the dimming and distorting of memories, in most cases they had remembered things more or less correctly. It certainly helped them on occasion to say, "Now I remember that, because I remember talking to x and y, as you can see in my statement."

Q7 Naomi Long: Lord Saville, good afternoon. There are a few questions that have already been talked about in terms of the difficulty of obtaining witness statements and so on, but there was a specific question in this case of dealing with those who were former paramilitaries who were coming forward to give evidence. You noted that they co-operated to the extent to which they were asked to do so, with only one refusing to comply with the written summons. Were you satisfied generally with the level of co-operation and the quality of the evidence that you got from those particular sources?

Lord Saville: Yes. Again, I could speak for an hour on the collection of evidence. This is one of the reasons why the thing took so long. If you take the paramilitary organisations, we were not just dealing with one; we were dealing with two. They are and were naturally secretive and disinclined to assist a "Brit" tribunal, because that is what they regarded it as, because of their political beliefs, but we managed to talk them round and the families assisted us in that regard. In the end, they gave us an account and we had to assess it and assess its accuracy and so on.

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There were very few cases where we thought people were trying to pull the wool over our eyes. In some cases, memories were dimmed or distorted and, in some cases, people perfectly honestly insisted that something had happened, when we knew it had not, because we had photographic or film evidence to the contrary. But, by and large, we got a large amount of co-operation; more, I may say, than I thought we were going to get when we started. When we started, we had no idea how much co-operation we were going to get, or from whom. We knew the names and addresses of very few soldiers and we did not know whether those people who had been on the civil rights march were inclined to come and help us, and so on. But over the years, people gained confidence in us and came forward, and they, by and large, did a very good job of trying to help us to find out what happened on that day.

Q8 Naomi Long: You have mentioned some of the reasons that people may have had for not wanting to co-operate with the inquiry. For example, with the security services and security forces and former paramilitaries, were there other reasons why people did not want to co-operate, and was security a complication in terms of being able to undertake the inquiry?

Lord Saville: Some people did not want to co-operate because they did not like the idea of another inquiry into Bloody Sunday. Some people, like the paramilitary organisations, had a set of beliefs. It took a long time to persuade them to co-operate with what they regarded, as I said a moment ago, as a “Brit” court; it is just not what you do as a member of the IRA, but in the end they did.

As far as security was concerned, the major problem we had in both obtaining documents and, indeed, calling witnesses was people’s right to life—article 2 of the Human Rights Convention—because if quite a lot of the names of the witnesses had come into the public domain, those witnesses’ lives would have been put at risk. But there were various applications by Government agencies for immunity certificates, so that we did not disclose certain documents. We looked at those, we saw the documents, and I think in all or virtually all cases, the grounds were these documents cannot be put into the public domain, because to do so would put people’s lives at risk. We judged whether that was correct or not and ruled accordingly. So, it was not a great problem. There was a small amount of material that we could never and will never be able to reveal, but that is, I think, probably exclusively material which, if it was revealed, would put people’s lives at risk. So, I do not think there was a serious problem in that regard.

Naomi Long: Thank you.

Chair: To some extent, you have answered these questions, but can we turn to the timescale involved with the report? Gavin.

Q9 Gavin Williamson: Lord Saville, what was your original estimate for the timescale of the inquiry?

Lord Saville: We did not have one. I am told that the Northern Ireland Office thought it might last a year or two, or something, but on what basis they made that

estimate, I have no idea. It was not possible to estimate how long it was going to last. If you think about it, you have a day which has already been the subject of a previous inquiry. That inquiry has caused a great deal of bad feelings. There are the most serious allegations made of complicity in murder—not just the soldiers, but the British Cabinet. There have been articles, television programmes, films and enormous numbers of people involved on the day, and we are asked by the then Prime Minister of this country to look to do another public inquiry, and the words used were, “This has got to be thorough.”

I took the view, rightly or wrongly, that the only way we could do a proper, fair inquiry into an event like Bloody Sunday was to look at it with the greatest possible particularity. So, at the start, we had no idea how long that was going to take, and that is going to be the case with any inquiry of this sort of nature. Until you have actually collected the evidence and have chased down witnesses or anything else that is required, and organised the IT, if you like, the hearings and everything else, it is impossible to give any meaningful estimate.

Q10 Gavin Williamson: In 1998, would you have comprehended that it could have ever possibly lasted to 2010?

Lord Saville: I did not comprehend it, because I had no idea how long it would last. We tried not to waste any time, but you have to remember that the Bloody Sunday inquiry was not, in fact, an inquiry into one incident, because we had to look at each individual shooting, because to do otherwise would be, apart from anything else, grossly unfair to the soldiers concerned. You cannot paint them all black with one brush without giving each of them an opportunity to put his side of the story and, of course, that would take a very, very long time.

Q11 Gavin Williamson: You have described the various factors in the report adding to the delays in the report’s coming out. Do you think any of them could have been foreseen and avoided?

Lord Saville: Well, with respect, when you say “the delay”, do you have a benchmark?

Q12 Gavin Williamson: Well, personally, my view is that you should never start a report without setting some sort of deadline in an inquiry, even if that needs to be extended, because I always tend to think that, if things are open-ended, then things tend to run and run, but that is only a personal point of view. But I think, by anyone’s estimations, between 1998 and 2010 is a long time. I just ask whether you think, using the benefit of your experience of running that inquiry, there are any lessons that you could sort of draw from that?

Lord Saville: Well, I think there are lessons. The first lesson starts at the very beginning, before an inquiry is instituted. If you are going to have a thorough, proper, fair inquiry, whether it is into something like Bloody Sunday or, if you like, Mary Nelson or any of the others, it is going to cost, necessarily, a large sum of money and take a very long time, simply because, if you are going to do it properly and fairly, you have

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to look in the greatest possible detail at the evidence and other materials that are available on which you are going to form a view. That is the starting point. If you try to do an inquiry on the cheap or you try to do it quickly, you come seriously unstuck. Lord Widgery was asked to do an inquiry quickly and, if I may say so, boy did he come unstuck.

Q13 Gavin Williamson: Okay. It is interesting. Do you think you can strike a balance between being comprehensive and thorough on the one hand, and the need for timescales and also a regard for public funds on the other?

Lord Saville: I think you have to try to. I know I have been criticised, with people saying that the inquiry was a disaster in terms of time and cost, but the difficulty with those criticisms is: what is the benchmark? If somebody says it took too long or cost too much money, the only way you can really take that further forward is to say, “Well, it should have lasted a shorter time and should have cost less, because...” and then you start going through what we did and, by all means, criticise it, but nobody has done that, and nobody who was involved in the inquiry—and I am talking not just of my own team, of course, but counsel and observers who actually sat through the inquiry and looked at the amount of material that we had to look at—has come up with any suggestions as to how we could have done it quicker or better.

We did our best, bearing in mind that we were using public funds, but if you take the biggest item of expenditure—lawyers—well, if you look at the appendix in the end of the report, you will see my ruling on why we allowed the legal representation we did. But, putting it in general terms, if you are the mother of one of these lads who were shot and there is going to be a big public inquiry, should you not have a lawyer to protect your family’s interest? If you are a soldier accused of callously murdering people on the British streets of a British city, should you not have a lawyer to protect your interests?

And in a case where people have died as a result of the state agencies, such as soldiers, it is now our law, under article 2 of the Human Rights Convention, in effect, that you should have legal representation. So our test is always what is fair and what is just, whether it be soldiers, civilians or anybody else, and unfortunately—I say that, although I was one myself once—lawyers are expensive; very expensive. But the answer to that does not lie with me or people like me conducting inquiries. If there is any answer, it lies elsewhere, but that is nearly £100 million of the cost of this inquiry.

Chair: I think we want to come on to costs in a moment. Did you want to come in on this subject, Mr Stride?

Q14 Mel Stride: Yes, very quickly. Lord Saville, you say, I think quite rightly, that nobody would want an inquiry on the cheap, and that might be an accusation one could level at the Widgery inquiry. However, would you not accept that, if you have a process—an inquiry—that lasts 12 years and costs over £190 million, it is inevitable that there would have been efficiencies that could be applied—maybe only

discovered with hindsight—that could have delivered the same quality of result but at less money and less time? And if you do accept that, what, with hindsight, would those changes have been that would have delivered it quicker and at less expense?

Lord Saville: I am not sure I can accept your premise. I strongly suspect that you could have gone and got 10 quid a night off the hotel accommodation costs or something like that, or you might have been able to, but if you are talking about really substantial sums, I am not aware of anything, looking back, where we could and should have done better. What I would press on you all is, if the occasion comes to have another inquiry, whether it is into an event like Bloody Sunday or anything else, is, before you actually launch the hearing of the evidence, to do as much forward-planning as you can, and which we did. You set out where are you going to have it, who is going to interview the witnesses, when are they going to be interviewed, are there any questions of law that ought to be sorted out now or which can go to the courts? All that ought to be done in advance of actually starting the hearings, because if you do not, then you are likely to run into delays and difficulties halfway through the hearings.

So, the earlier, the better. However, having said that, you want the highest possible calibre of person assisting. If you do not, the risk of these things going wrong is really quite considerable, and so you want to do as much forward planning as you can. By all means, try to estimate how long the thing is likely to last and where you will get to as the years go by. In some inquires, there is no doubt it would be reasonably easy to produce an estimate, but you are talking of an inquiry here with over 4,000 witnesses, a huge analysis required of the evidence and 400 days of hearings. And then the parties, who, surely, must be allowed to have their say, putting in their submissions, which we did not have orally, to save time and money—we had them in writing. There were 14,000 pages of them, all to be studied by my colleagues and I.

So, I am afraid I am not surprised it took as long as it did. I did not know at the outset it would—I did not know long it would last—but it was a huge inquiry, and we did our best not to waste time or, indeed, money, although I readily accept it ended up costing a lot of money and a lot of time. It cost a lot of money and a lot of time, but it does not begin to follow that it cost too much or went on too long; that is simply a non sequitur.

Chair: Okay. Mr Benton, did you want to come in on this point?

Q15 Mr Benton: Yes. Good afternoon, Lord Saville. I do not underestimate, in any shape or form, the magnitude of the task that the inquiry had, and I do not share any criticism of the length of time. But this criticism does pose another question to me, which, I think, is a valid one, in the sense that, because of the length of time, did you or the inquiry feel, at any time, constrained, pressurised, because I think you would agree with me that to take evidence hastily in an effort to try to “speed things along”, to coin a phrase, is not the most desirable way of taking evidence. So, I

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wondered if there was a point at any time, or any occasions, where the inquiry team felt, “We have to respond and we have to respond quickly, and we have to do this”? In other words, it is a converse way of posing the question about the length of time.

And the other thing is not connected with the length of time, but, if I may take the opportunity. It has been so long and so extended and there is plenty of evidence, certainly in my own mind, about the faultiness of memory recall of events and so on and so forth. Your findings are now before us after such a lengthy, shall we say, inquiry, and so much detail. I hope it is not considered an unfair question, but I wonder what reaction the inquiry team would like to see from their findings now in terms of a response. I hope you might be able to comment on that.

Lord Saville: Yes. So far as the evidence-taking was concerned, no, we did not hurry anybody. We did a very considerable amount of advance planning. We tried to accommodate witnesses’ convenience. We had a witness liaison suite, where we would welcome them when they arrived, and a witness liaison team, and they would be taken through our IT stuff and so on. And they would be given plenty of time to be asked questions, and nobody was hurried at all. It worked well, and the reason it worked well was forward planning and an immense amount of work by my inquiry team in organising witnesses. When you are trying to organise hundreds of witnesses over hundreds of days, it is an immense task, but nobody was hurried.

What we felt we might achieve: well, as I said a little earlier, my ambition—and I think that was the same of my colleagues—was that, in the circumstances, with the previous inquiry causing such unrest, with the seriousness of the allegations and all the other difficulties, the one thing we had to do was to produce as thorough, detailed, complete and fair a report as was humanly possible. I am sorry to say it once again, but the amount of material we had meant that it took very many years of analysing that material before we could write it down and reach our conclusions.

So, thoroughness—that was the aim, to produce a thorough report. I was not thinking that everybody was necessarily going to agree with our conclusions, but what I did not want said was, “Well, they did not do a thorough job,” and if people think we did do a thorough job, even if they disagree with our conclusions, I could live with that. But I could not live with, in the circumstances, not feeling that I had done a thorough job.

Q16 Oliver Colvile: Lord Saville, thank you very much for coming to talk to us and thank you for the hard work that you put in to produce this report, which has been very interesting and most certainly has helped, I think, resolve a number of issues taking place in Northern Ireland. As the process went on, were you aware that this was going on some time, and did you come under any pressure from anybody at all who said, “Frankly, Lord Saville, when are we going to get to this? When are we going to finish?” Did you feel under any pressure at all from anybody to hurry it up?

Lord Saville: Well, the previous Northern Ireland Secretary certainly wrote to me—and the correspondence is public and we made it public—expressing, and understandably expressing, disquiet at the time that the report was taking to prepare, but it did not put us under any pressure. We understood why everybody was anxious to get the report out, us included. We understood that, but there was no way we could go faster than we did. I have to say again, it must be understood, when you have an inquiry like this—there may never be another inquiry like this; this is unique, for a number of reasons, including the fact that it is second time round as an inquiry—it is simply going to take a very long time and, I am afraid, cost a very great deal of money.

Q17 Oliver Colvile: I think what we are trying to find out as well from you, though, sir, is that, hopefully, there will not be another inquiry of this length, but if there are going to be other inquiries, are there lessons which we can learn regarding timing and to make sure that we do not find ourselves in a similar situation again as far as the public purse is concerned?

Lord Saville: I see that. I am not sure I can answer that, because I think it must depend on the nature of the inquiry. All I can say is that, with the IT and facilities we have nowadays, and the team I had and so on, if you had another Bloody Sunday and another inquiry 30 years down the line, it is going to take you 12 years and it is going to cost you £200 million, or thereabouts. So, I am not sure there are any lessons one could learn in conducting an inquiry of this kind, but inquiries differ. If you take an inquiry, if you like, into what happened on 7/7; that is three years ago, plenty of witnesses, a number of events, much more contained than Bloody Sunday.

Oliver Colvile: And also television footage as well.

Lord Saville: Exactly, yes. So, it depends on the subject matter of the inquiry. I would, once again, say that the secret of getting it as cheap and quick as it is possible to do is forward planning: get your team in place, get it organised, organise your IT, where the inquiry is going to be held, who is going to get hold of the witnesses, who is going to interview the witnesses, in what manner, what questions are going to be put, who should be represented by lawyers and so on. Get all that out of the way at the beginning and you are likely to speed things up substantially, which is what we tried to do.

Q18 Chair: Perhaps I could just ask one final question on the time. Correct me if I am wrong, but was it five years from the last evidence session to the publication of the report, which seems, on the face of it, a long time? What was the reason for that delay, if I could describe it as a delay?

Lord Saville: I think it was about five years, yes.

Chair: It seems a long time.

Lord Saville: About 1,000 pages a year to write. That is not too bad, is it? If you look at the body of the report, you will see the sort of detail we have had to go into. We had all the contemporary statements. There were literally hundreds, if not thousands, of issues on which the soldiers on the one side and the families on the other were at odds. There was hardly

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any agreement on anything, so we had to solve dispute after dispute after dispute—and I am talking about thousands. That is why I feel that, if you read the report, if you read the detailed chapters on what happened, I hope you will be able to begin to see the huge amount of material that had to be analysed and put in place.

It is very easy, if I may put it like this, to look at the principal conclusions chapter and think, “Well, a lot of soldiers ran amuck. Where is the problem?” That was not how it looked in 1998, when we started. We had no idea what had happened and, until you have looked at all the evidence, it would be wrong to form any idea of what happened. And, looking at that evidence, analysing it, looking at it in the light of the submissions from the interested parties, I am afraid, took a great deal of time. The sort of thing that took a lot of time was, if you look at the report, all the findings we make and the evidence to which we refer is footnoted, so that the public anywhere in the world could actually look at the evidence that we looked at and form their own view as to whether they agree with the conclusions we met on. Now, the sheer task of making sure those cross-references were correct is enormous—we are talking of 20,000 references—but we were determined to do a thorough report.

So, I would like to say that we could have done it quicker—I was very keen to finish; it has taken a decade of my life—but we worked as hard as we could. And may I, at this moment, pay a tribute to my colleagues Bill Hoyt from Canada and John Toohey from Australia? Now, they gave up a decade of their retirement to help us out, and I do think they should be publicly thanked for taking on that task, leaving their respective countries and coming here. They are, if you can imagine it, even older than I am, and they worked incredibly hard and were incredibly supportive. It is all very well people talking about the Saville inquiry; the inquiry was a tribunal of three, and I would like to make that as clear as I possibly can.

Chair: Thank you. To look a little bit more into costs now, David.

Q19 David Simpson: Thank you, Chairman. The emphasis has been on the costs for many years, and the reasoning for that, Lord Saville, from the people who speak to me, is that the length of time that the inquiry has taken and what it has cost now mean that a lot of families out there who will be asking for inquiries will not get them, because the Government has said there will be no more long, costly inquiries. And while there was a Bloody Sunday, there were also Bloody Mondays, Tuesdays, Wednesdays right through the whole of the week, and we know a lot of the atrocities in Northern Ireland and certainly here on the mainland.

But whenever I look at the research that has been given to me, I think I went wrong somewhere in life. I think that I should have stayed at school a lot longer when I look at the fees that the legal representation was receiving. One company, it is suggested, received over £13 million to interview civilians, and indeed it may be a speculation—and I add speculation, Lord

Saville—that you, yourself, received somewhere in excess of £2 million for the inquiry. And surely—

Lord Saville: I am sorry to interrupt you. I received whatever I received as my salary as a Law Lord.

Q20 David Simpson: I am not disputing that, Lord Saville. What the press has said, I am only repeating that. But in relation to the budget, you said earlier to some of the questions that you were given no timescale—it was really open-ended. Are you saying that, as far as the finance was concerned, it was open-ended as well? There was no restriction on the budgetary controls in any shape or form?

Lord Saville: The restrictions were of a different kind. If you take legal representation, which is an important one to take because it costs so much money—it is half the cost of the inquiry—the way we looked at it as a tribunal was to say, “Well, would it be fair and just to provide this family or these soldiers or these politicians with legal assistance and representation at the inquiry?” In some cases, we said no; it did not seem to us to be in any way necessary in the interests of justice. In other cases, we came to the conclusion, in the interest of justice, that there should be legal representation.

I will give you an example of where our hands were slightly tied. In Lord Widgery’s inquiry, the families were given very limited legal representation, and those legal representatives were given very few of the relevant papers, and that was a cause of huge disquiet among the families. So, when the new inquiry was launched, we reached the conclusion that the families should have a very substantial degree of legal representation, because that was the only way in which it would be fair and—even more importantly in this instance—it would be seen to be fair to them. I repeat: lawyers cost money. How much they charged was a matter for negotiation, but I am told that they charged and were paid the going rate for enterprises of this kind.

David Simpson: But you are not aware—

Lord Saville: So, when you say “open-ended”, it is not open-ended in the sense that we applied the question: is it fair and just in the circumstances of this inquiry that these people should have lawyers? If the answer was yes, then they had lawyers.

Q21 David Simpson: But you are not aware that at any stage there was a budget set to handle the whole of the inquiry—whatever bills came in, they were paid by the Government.

Lord Saville: I do not think I am following you. To command public respect, an inquiry like this has to be thorough, but it also has to be fair, and fairness and justice, in certain instances, require—you may agree with this or not—the employment of lawyers. Lawyers are expensive, but once we had concluded that it was only fair and right that a particular group of people or a particular individual should have legal representation, that, I am afraid, was the end of it, as far as the tribunal was concerned, because the tribunal’s job was to do a thorough, fair job.

Q22 David Simpson: Yes, I accept that, and I am not disputing what you are saying in relation to that. The

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point I am making is that, if it was open-ended in relation to timescale, it would seem that it was open-ended: irrespective of whether the tribunal was finished with it at a certain time or not, the Government just paid the bills as they came in. No matter what they were, there did not seem to be a query on them—just, whatever the bill was, it was paid.

Lord Saville: I cannot see, looking back now, having done it, how you could have put, at any particular stage, a time limit on it. It depended how much work there was to do. We collected a lot of evidence, there were huge numbers of issues—the soldiers and families disagreed about just about everything—and to sort it out took a great deal of time. It was almost impossible—in fact, I would have said impossible—to go back five years and say confidently, “Well, it is going to take us two years, three years, four years, 10 years.” You simply, in effect, do not know until you have done it, and you have not done it until you have written it and checked it, and double-checked it and checked it again.

I am sorry to emphasise this, but we had to get it right. People may not agree with our conclusions, but we had to get our analysis of the evidence right, and it just takes a long, long time. So, can I repeat: I have heard it said that there are going to be no more big inquiries of this kind, because of the money and time. That is not a decision on which I feel competent to offer a view. I am a judge; I am not a politician. That is a political decision to balance the costs and time against the benefit you are going to get from the inquiry, and that is where politicians must have the balance and decide one way or the other.

Q23 Chair: Could I ask a more specific question on the lawyers’ costs though? Who set the fees? Presumably, they did not just tell you what they charged and you paid it. There must have been some panel agreement as to what they were allowed to charge.

Lord Saville: Well, despite me being a barrister many, many years ago now, fees are a bit of a mystery, but there is, generally, what is regarded as a going rate for appearing as counsel in inquiries and so on, and that is what we paid.

Q24 Chair: What is that hourly rate?

Lord Saville: I could not sit here and tell you what the going rate is. It would depend on the seniority of the counsel concerned and the amount of time employed and so on. But I think I could say here that there has been some quite serious criticism of my leading counsel, who is now Mr Justice Christopher Clarke, in some of the press, pointing out how many millions of pounds he earned on this inquiry, and that, I am bound to say, is grossly unfair. Christopher Clarke was at the very top of the commercial bar in 1998 when I asked him if he would be counsel to the inquiry, and he accepted that assignment as a matter of public duty. If he had not done so, I reckon he, at the top of the commercial bar, would have earned two or three times as much as he earned as a barrister for the inquiry. So he, in effect, made a sacrifice out of a sense of public duty, and I think it is unfair to criticise

him. There is no question of him overcharging. He gave up a great deal of money to help the inquiry.

Q25 Gavin Williamson: Lord Saville, I apologise; this is probably my ignorance here, but you mentioned at the start that you went through a beauty parade, with Eversheds coming out as the winner. Was there an OJEU process that you did in choosing a legal firm, and was cost a consideration as part of that, because it usually is in any public procurement process?

Lord Saville: Yes. You are now asking me to remember back to 1998—

Gavin Williamson: I am afraid I do not have a tape-recording either.

Lord Saville:—and I do not have the documents in front of me, but, yes, we were looking at the sort of team that solicitors would put up to take statements, what their charges were, when they were available—everything. And I cannot remember now. There were three, four or five, I think, firms of solicitors who expressed an interest, but we decided that Eversheds were the ones who should get the job.

Q26 Gavin Williamson: Usually, in a public procurement, you weight it by quality, costs and everything else. I do not suppose you recall what sort of weightings you put to cost.

Lord Saville: I cannot give you details at this length of time. We certainly had cost in mind, but what we wanted were people we thought would do the best job of collecting evidence and taking witness statements from us; that is what we were looking for, and we found it in Eversheds. And I repeat: I could pay nothing but praise to Peter Jones and his team for the job they did. They did a marvellous job. Of course they charged a lot of money; they are highly professional people. They know how to take statements and you do have to pay good people good money for a good service. There is no way around it.

Q27 Dr McDonnell: Chair, I want to reserve the right to come back, but just a couple of points on this I wanted to raise with you, Lord Saville. How far did the legal challenges contribute to the delay and, indeed, to extra costs? And the dual location: did that double the cost or did it significantly increase the cost? Because I think that those points would, in your context, be all part of the fairness of the system and yet, from where I am sitting, they probably significantly increased the cost—the point that some of my colleagues are making.

Lord Saville: I think they did, undoubtedly. The view the tribunal expressed was that this whole inquiry should take place in Derry, where the shootings occurred, and the Court of Appeal in London took a different view, on the grounds that the soldiers’ lives might be in danger if they had to come to Derry to give evidence. That is the decision of the Court of Appeal and we, of course, abide by it. It cost £10 million on its own to set up another inquiry venue in London and have the soldiers’ and politicians’ evidence here, so we had to end up with two venues for the inquiry, and that was not cheap. But I would be the last person to say that there should not be court interference in the conduct of an inquiry. I may not

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agree with what the Court of Appeal decided, but you have to have somebody there who can correct what are seen to be errors in the conduct of any inquiry, and that is the courts.

The other rulings of the courts also added enormously to the costs. The courts ruled that the soldiers and, on the principles they laid down, a large number of other people should have anonymity. Now, that meant going through tens of thousands of documents to redact the names of people and put the ciphers in their place, and you can imagine the sort of cost that came to. But these are the sorts of things that are going to happen in an inquiry of this nature. But in answer to your question, there is no doubt that, yes, the legal challenges—some, I am glad to say, we won—including rulings like on anonymity and where the inquiry should take place, cost a great deal of money.

Q28 Mel Stride: Lord Saville, you pointed out that the legal costs themselves were about half the cost of the inquiry—£100 million, I believe. Clearly, I also understand that 2,500 statements were taken, so I do not think that anybody underestimates the huge amount of work that was involved here. I would also totally accept your points about the importance of being thorough in terms of achieving justice and being seen to achieve justice, given the context of Northern Ireland and also the history of the Widgery inquiry. I would equally accept that your comments about, perhaps in some individual cases, pointing a finger at somebody and saying, “They got a lot of money out of it; that was, therefore, unreasonable,” are also a fair point to make.

Q29 However, I kind of keep coming back to my earlier point, which is: £100 million is a huge amount of money. You have, quite rightly, told us, in the context of the implications of this inquiry on possible future inquiries, that you are a judge and not a politician, and that is right. I am wondering whether the degree to which you are a judge and you are not a businessman, which is also right and proper, has had some bearing on the fact that perhaps costs have not been squeezed down to the degree that they might have been. I do not think you should be blamed for that, because your job was justice, not so much running a business as such, but, if that point is valid, where would that input perhaps have come from, had it been there? Because that, to me, would be a very significant lesson for us to learn in terms of future inquiries and that kind of cost issue.

Lord Saville: I would entirely agree with the philosophy behind that. It is bad, for all sorts of reasons, to spend money that you do not have to spend or you do not need to spend to be thorough and fair. The control, I think, lies primarily with the staff who are employed in the inquiry—the secretary to the inquiry and his or her assistants—to be quite careful with the involved Department. In the present case, if we have the Northern Ireland Office getting too involved, then, of course, we are open to the charge that we are being influenced by Government. So, it is difficult, but the answer, again, I think, lies in proper planning at the beginning, and I entirely agree, proper

bearing-down to ensure that no money is wasted, and to do that from the outset onwards.

But it is difficult, for the reason I have just explained, to suggest that the Government Department involved should play any principal part, because, once again, immediately, the allegation is made, “Well, they are trying to do a cover-up. They are not spending enough money so that the truth does not come out,” and so on. That, you have to avoid; otherwise, you are just wasting the entire exercise.

Q30 Mel Stride: I can see that challenge entirely. It must not be Government, and I accept your point. Is there any other avenue that one could look at or any other input here that might achieve that without compromising the inquiry in that way, in your view?

Lord Saville: Well, sitting here, I cannot think of one, and I go back. If you get the right tribunal and you get the right staff—high-calibre staff—then, almost ex hypothesi, they are going to lean down on costs, and we were all keen not to waste money. But you then get things like a difference in view of the courts, for example, on where the soldiers’ evidence should be heard, and you have spent £10 million.

I am sorry to come back over and over again to the same point: if you are going to have an inquiry into something like Bloody Sunday, whatever you do, it is going to cost a huge amount of money and it is going to take a huge amount of time. Nobody has yet come to me with any suggestion as to how you could do it quicker or cheaper. But I agree: bear down on the costs at all times, but ensure that, by doing so, you do not impugn the independence of the inquiry.

Q31 Oliver Colville: Forgive me for asking the question, Lord Saville, but did anybody at any stage say, “How much is this costing?” during the course of the process, or did you just end up by ultimately, when you had done the whole thing, suddenly, “How much did this cost?” and that was the figure that came up? Was there any process during the course of it where anybody kept an eye on the cost?

Lord Saville: Yes. Well, I personally did not, because I was busy trying to conduct the inquiry, but I would imagine—and indeed hope—that the Northern Ireland Office, who were paying the bills, did. You will have to ask them, I am afraid.

Q32 Oliver Colville: No, no, I think that is very fine. It is just that what we do not want to find suddenly, in a future inquiry, should anything happen like this again, is a huge great bill at the very end. I suspect there was quite a bit of intaking of breath when people heard what the final bill was going to be.

Lord Saville: Indeed there was, and one would naturally have an intaking of breath when we are talking about the sum of money we are talking about and the time it took. I can only say to those people who draw breath, “But would you kindly look at the report? You will then see the size and complexity of the task that faced us.” And that is my only answer. I am yet to hear people provide any form of case for saying that we could have done it quicker or cheaper.

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Q33 Chair: There is the implication, though, with the Hamill, Nelson and Wright inquiries, for example, that fees can be capped in terms of chargeable hours and hourly rates. That is not going to be very different to your inquiry.

Lord Saville: The Nelson inquiry is about one very tragic incident, but it is one incident—one shooting. In the Bloody Sunday inquiry, we looked at 27 of them, and you had to look at each of them separately. And you also had to look at the shots that the soldiers fired that did not hit anybody, so you are talking about several dozen shooting incidents, admittedly over a short period of time, so, if you like to put it this way, several dozen inquiries. And—

Chair: That is not the principle of it, though, is it?

Lord Saville: And I am not in any way criticising them, and I am sure that the money has been properly spent. The Nelson inquiry is about one incident, £50 million. I think that shows once again, if you are going to do it thoroughly—and I am sure the judge in charge of that inquiry is doing precisely that—it is going to cost a lot of money. And that is where the political question comes in: what is the cost-benefit?

Q34 Chair: Let me put the question slightly differently then: is it right to set limits to how much lawyers can be paid an hour in an inquiry?

Lord Saville: I do not see how you can.

Q35 Chair: But it has happened.

Lord Saville: If you take our Bloody Sunday inquiry and put yourself back in 1998, what limits are you going to set? We did not know what evidence we were going to get, we did not know how long it would take to get it, we had to search for witnesses, and we ended up with live evidence from just under 1,000 people. We did not know that was going to happen until, more or less, it happened, so I am afraid to say—and I am more than happy to discuss it—I just do not see how you can, in advance, put down any sort of time or cost estimate. The danger is, if you try to, you will get an inquiry that goes off at half-cock and you will have wasted all your money.²

Chair: Naomi, did you want to come in?

Q36 Naomi Long: There are just two points which I want to raise. You mentioned Widgery and the different conditions under which it was conducted in that it was meant to be quick and cheap. I do not know if you have a view, but certainly it would seem to me that, if we were going to compare, had Widgery been allowed to conduct the inquiry at that time and had it been done in the way that your own inquiry was undertaken, it may have saved a lot of time, a lot of money and, indeed, considerable pain to all those involved, because we may have had the outcome that we had in this case, without the intervening period of time. The other issue, I suppose, is, having gone through the process yourself, do you think that establishing the truth of incidents such as Bloody Sunday, but not exclusively the events of Bloody Sunday, can only be achieved through a public inquiry of the kind that you conducted, or do you believe that

there may be other mechanisms that are capable of delivering the truth?

Lord Saville: Well, if we take Bloody Sunday first, can you think of another way of doing it? Because I cannot. You have huge differences between soldiers on the one side—and indeed politicians—and the families on the other. You have a report by the then Lord Chief Justice which has caused dissension down the years. And then the Government decides, “Well, it is correct to have another inquiry.” I cannot see another way of doing it than the public inquiry route, and that is why we spent a lot of money, for example, on IT, so that it became a truly public inquiry. Normally, if you go and do a public inquiry with lots of documents, you can sit at the back and go in; it is public. You do not have a clue what is going on, because you do not have the documents, and so witnesses are asked questions and you can sit there. You have no idea what is going on.

Well, we altered that. We digitised all the documents, so that people could come in to the hall or look elsewhere, because we had closed-circuit TV, and the document would be on the screen and the question would be asked, and so it became totally public. People could understand what was going on, and they could understand what was going on by using IT, as we did with the Bloody Sunday website, so that, every evening, the transcript of the day’s hearing would be put up and all the statements and documents that had been referred to that day. Again, of course, it is not cheap, but it does achieve the real public nature of an inquiry. And coming back to your question, I do not know any other way that it could have been done. I would be very interested if anyone had any suggestion as to what it could be.

Q37 Chair: Are you therefore suggesting that the Government’s policy of ruling out any more inquiries of the like of Bloody Sunday is a wrong approach?

Lord Saville: I do not want to dodge the question but I do not think it is for me. The answer I would give: well, it must depend on the circumstances. I think—I hope—Bloody Sunday is unique in its circumstances: the number of witnesses involved and the troubles it has caused down the years, as well as the distress it caused at the time. I hope it is unique, but if there was another Bloody Sunday, then I suspect any Government might well think again. I can understand. I keep repeating: you have to, in advance of making a decision, have a cost-benefit analysis. Is it worth the sort of money it may well cost? In many cases, you would conclude, “No, it is going to cost too much, take too long, and the benefit is too uncertain.” But I do not think you can give a general answer to the question you have just put to me.

Q38 Mr Benton: I want to follow the questions I posed earlier, Lord Saville. It was such a long time and such a demanding inquiry; we have heard today about some of the difficulties that you have confronted over it, and let us hope it is a unique inquiry. As the chair on that tribunal, what would you like to see as the response now to your findings? I do not think you answered that point.

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Lord Saville: I think you are right; I did not, and forgive me. I did not know what response we would get and, as I said earlier on, my colleagues and I had one aim, which was to conduct a fair and thorough inquiry. Whether people agreed with our conclusions or not was really a matter for them, but the one thing we did not want was for people to say, “Well, they did not look at it in enough detail,” and so we looked at it in the greatest possible detail. And if people accept our conclusions, then I am very happy, but, as I repeat, our ambition was to do a thorough, fair inquiry. What people made of it—and I have done that—is a matter for them.

This may be from 25 years as a judge, where, if you think about it, you are only ever going to satisfy 50% of the people, because half are going to lose and half are going to win, so you do not really look at it like that. You hope you have done a proper, thorough job and, if half like it and half do not, well, that is life. I do not think I can give you a better answer than that.

Q39 Jack Lopresti: Lord Saville, some public inquiries only allow questions to be put by counsel to the inquiry. You have said that this was impractical, bearing in mind the controversial nature of events being investigated, but surely other public inquiries look into matters of great controversy. Why was this inquiry unique?

Lord Saville: Of course, they do; they can be matters of great controversy, but equally they can be matters that took place two years ago, where there are not the sort of surrounding circumstances that surrounded Bloody Sunday, where you are simply looking, perhaps, at a single incident or a number of incidents. Bloody Sunday ended up with, if you take it to the extreme side before we start, an allegation that the British Cabinet was guilty of a conspiracy to murder Nationalist Catholics on the one side, and used soldiers to murder civilians as a matter of deliberate policy. You do not get much more serious than that. That meant looking at not just the day, not just the hours when this happened, not just the 10 minutes when the shooting occurred, but the days, months and, indeed, years before to see what the British Government’s policy was, to see whether there is anything in the allegation. It was all very well for Lord Widgery to say there was no evidence to support the allegation at all, but we went much further.

If you look at the opening chapters in the report, you will see that the evidence, in fact, points in diametrically the opposite direction. Ted Heath and his Government were, in fact, taking very substantial steps in an attempt to work towards a peaceful political solution in Northern Ireland, and Bloody Sunday destroyed it. The idea that they somehow set up Bloody Sunday in the light of that is one that we personally completely rejected.

But that was days, weeks and months of evidence, and that is just one issue, before you even get to the day. So, yes, matters can be controversial, but you have this combination in Bloody Sunday of controversial, incredibly complex, involving thousands of people over a period of months and, indeed, years, because of the previous history of Northern Ireland, and it just gets very complicated and—I repeat—takes a long

time and costs a lot of money. Another inquiry into something controversial may take much less time and be much less expensive. You cannot draw a lesson for the one from the other; you have to look at what you are talking about.

Q40 Jack Lopresti: Sure. Thank you. Your report also seems to unequivocally indicate that you believe that so-called active service units of the IRA were present and armed in Londonderry that day. The manner in which they are often described—armed active service units—itself implies a feeling by them that they were at war. Is it not only fair to agree that all parties involved must bear an element of responsibility for the events that day?

Lord Saville: Well, I think, here, if I may say so, one is beginning to trespass into the findings and conclusions of the inquiry, and I do not think it would be appropriate for me to do more than to commend the inquiry and our conclusions to you with regard to a question like that.

Jack Lopresti: Are you happy with that, Chair?

Chair: Well, we have a debate in the House of Commons, when we can explore those issues, so I think we should perhaps move on now. Can we finish on the issue of cost—the other costs? Oliver, Lord Saville has answered some of them, I think.

Q41 Oliver Colvile: Yes, I think he has, and it may be that one of the things that you will suggest that we need to do is to invite the person who was actually in charge of, or looking at, the costs to come and have a chat with us at some stage. I think we do have to draw some lessons somewhere out of all this on the public cost of the whole thing.

But there are two areas. Lord Saville, on the amount of money that was spent on accommodation, travel and IT, in hindsight, do you think that there might have been some way in which we could have tried to find some savings? If there were another inquiry, what advice would you give the person who was running that inquiry?

Lord Saville: It is very easy to look at things with hindsight. If we take accommodation, with hindsight what we should have done—and this is with complete hindsight—is to have bought a house. We should have bought a house in Derry, put the entire staff and tribunal members up in it, and, when we had finished, sold the house and made a profit for the Government. But that is with the benefit of hindsight.

Of course, we would not have known at that stage that it was all very well doing that, but then the Court of Appeal in London was going to tell us that we had to come over here and spend a couple of years over here, so what do we do—buy another house here and so on? I entirely agree with you. We are talking about very large sums of money, but I am sorry to be repetitious: we are talking about a very, very big inquiry. There has never been an inquiry like this before, and it necessarily means a big team of people. It was inevitable, surely, that we should hold the inquiry—start the inquiry—in the place where this happened. What do you do otherwise? Well, what we do otherwise is what we did when the Court of Appeal told us to come here. You then bring all the families

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here, and you pay for them. So, accommodation was expensive, but there is no answer.

Q42 Oliver Colvile: No, I think you have answered that. All I would say is that we have to write a report at the end of it. There will be some things which we will have to come to conclusion about and give some advice, should this happen in the future, where we can actually learn some lessons from it. I think it would be very foolhardy for us just to say, “Oh, well, that has happened. There we go. We are not actually going to go back and there is nothing which we can learn out of that.”

I think there is an issue to be learned as far as how you control the money and the expenditure. And the other question which I would ask you is: did you think that, actually, it was value for money—I realise you were told to do so—to actually hold it in Londonderry and also end up by holding it here in London as well?

Lord Saville: Well, the ruling we gave was that the whole thing should be held in Londonderry. The soldiers then appealed to the Court of Appeal in London, and the Court of Appeal held that their evidence and that of seven others should be given in London, and of course one obeyed the order of the Court of Appeal, which did add some £10 million to the cost. So far as lessons to be learned, there is an appendix, where we set out, in effect, the history of this inquiry, but I have yet to be persuaded—and perhaps I am wrong—that there was any large-scale wastage of money or wastage of time. We spent the time and money necessary to produce the result we have reached.

Q43 Oliver Colvile: I think the problem is, Lord Saville, it is taking place now, when there is an enormous amount of discussion about cuts in public expenditure and things like that.

Lord Saville: I think that is right. Yes, I agree.

Q44 Oliver Colvile: And I am afraid you have ended up in this position now, where we are having to have this discussion and debate in the context of everybody looking at the future of the dockyard in Plymouth, which is a very important issue to me—

Lord Saville: Absolutely, I agree.

Q45 Oliver Colvile:—and the naval base and all that kind of stuff, so I understand that.

Lord Saville: IT was a big item of expenditure, I agree, but I explained, I hope, a few minutes ago that we used IT—well, first of all, I think, if we had not used IT, I would probably still be working on the inquiry, because we digitised every document, the whole of the evidence, the transcripts, the lot, with the result that my colleagues could work in Canada and Australia and I could work in my home in the country, because everything was digitised.

The other huge advantage—one I have mentioned—is that everything could be made public, because it was vital, after Widgery, that the only way we were going to get confidence was to make the thing as public as possible. So, all the documents were available on the internet, on our website and so on. All were digitised. The transcripts were made every day of 435 days—

always; transcripts went up on the internet every night—and that, I am afraid, again, costs a lot of money. There is no way around it. I would entirely agree: you check, you make sure that you are not being ripped off by contractors and the like, but in the end, if you are going to do it properly, if you are going to do a public inquiry properly, you are going to have to spend a lot of money.

Chair: Alasdair, a different subject?

Q46 Dr McDonnell: On Lord Widgery, I just want to compliment you for the job you did in very difficult circumstances, because many of the people that I would talk to felt that, as my colleague here suggested earlier, you faced an almost impossible task trying to undo the dishonesty of Widgery—and I would put it as strongly as that—and, in fact, you did undo that serious damage. I think, for that, those of us who want to see justice and fairness will be eternally grateful to you.

I turn to one of the points that I wanted to raise earlier, which struck me. The terms of independence and fairness that you talk about, how much would they be compromised by the Inquiries Act 2005? Would you be able to do this inquiry today?

Lord Saville: Well, some members of the Committee may well be aware that I had a fundamental difference of opinion with Baroness Ashton, who was in the Justice Department at the stage when the Inquiries Bill was going through Parliament, because of what has now become section 19 of that Act. And the existence of section 19 led to Judge Cory, the Canadian judge who advised the then Government to set up a number of inquiries—not the Bloody Sunday inquiry, but other inquiries like the Nelson inquiry and the Billy Wright inquiry and so on—to say that he would not be disposed to sit as a tribunal under the 2005 Act. I am afraid I went public, as did Lord Woolf, at the time, to say the same, because it seemed to me that the difficulty with section 19 was that it gave the Minister in charge of the Department subject to the inquiry the right to limit the publication of documents and so on.

It is all very well saying, “Well, that would only ever happen in the most extreme of cases,” and it certainly has not happened to date with inquiries that have taken place under the 2005 Act, but the appearance it gives is, in my view, dreadful, because you get a Government Department which, on the face of it, is given power—certainly, carefully circumscribed, according to the Act—to say that “you will not make this public, you will not make that public,” and so on. My firm view is that that is a matter exclusively for the inquiry itself and, if you are dissatisfied with the decision that the inquiry makes on those matters, for the courts. And so I do not want to use too-strong language, but it does seem to me that that section has gone a long way to destroying any confidence in an inquiry of the nature, for example, of the Finucane inquiry, which is why that inquiry has not taken place; it destroys the appearance of independence, and a public inquiry must not only be independent, but must be seen to be independent. I think that that section destroys the latter.

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Q47 Dr McDonnell: Thank you, Lord Saville. That was very fulsome. To some extent, my understanding was that the 2005 Act was justified at times on the grounds that there was a need to control what you were doing, and the Saville inquiry—yes, well—

Lord Saville: That is my understanding too, certainly. Whether it is going to achieve that purpose, I do not know. One of the good things about it is that, certainly at the beginning, before you set up an inquiry as a Government Minister, you have to have a look at the cost-benefit. That is a very good thing, and there are some other good things in the Act, but not, in my view, section 19.

Q48 Dr McDonnell: Chair, the other point I wanted to come on to very quickly was that we are now faced with dealing with the past. Have you any thoughts as to how we might deal with the past? You have had the inquiry, you have seen the inquiry working, you have seen how long that takes, and I accept it was a special inquiry, because you had to undo the very, very flawed Widgery inquiry that was counter-productive. But, taking all that into consideration, you mentioned Rosemary Nelson and other inquiries there, and the Billy Wright one: is there a better way of establishing the truth, other than this type of inquiry into events, or have you an opinion on that?

Lord Saville: Well, I think I would say, in answer to that, that, again, it depends on what you are thinking of inquiring into. If you take the Bloody Sunday inquiry, then I think the only way you could have another inquiry which we have had is along the lines of the one I conducted. I cannot see another way you could do it. But other cases might lead to different conclusions. We have Denis Bradley's work—

Dr McDonnell: Yes. Well, that is my next question.

Lord Saville:—a most admirable man, in the form of truth and reconciliation. All these are ideas, but I think you cannot have a “one size fits all” solution, certainly to some of the historical problems of Northern Ireland. So, I have given you rather a vague answer, but it all depends on what you are looking at as to what the best form is, and I do not, for one moment, say a public inquiry along the lines of the Bloody Sunday inquiry is the answer in every case—or, indeed, many cases, because, once again, you really have to justify it in cost-benefit terms. It is not for me to say whether the big cost and big time of the Bloody Sunday inquiry was worth the result that we have achieved; that is for others to decide.

Q49 Mel Stride: Lord Saville, section 19 of the 2005 Act apart, are there any other aspects of current public inquiry legislation that you would like to see changed or would recommend—

Lord Saville: No, I do not think so. We did have the advantage of having discussions with those who were

drafting the Bill when it was in the drafting stage, and came up with some ideas that they adopted. I have no particular comments on other bits and pieces of what is now the Inquiries Act. Whether it achieves its objective, which, I think, was to limit cost and time, is another matter altogether, for the reasons I have said. If you have an inquiry into an event like Bloody Sunday, however you dress it up, if it is going to be independent, thorough and fair, it costs a lot of money. There is no answer.

Q50 Chair: Okay. I think we have covered pretty well all the questions we wanted to ask you, unless anybody has anything else. Okay. Lord Saville, is there anything else you would like to add to what you have said?

Lord Saville: Well, thank you very much for inviting me to the Committee. I do not know whether I have been any help at all. It was a long haul, the inquiry, and I hope you can rest assured that we were not just sitting there day after day thinking, “Oh, let us make this last another five years or so.” We were desperate to finish and I can tell you that, for the last two years of the inquiry, I worked harder than I had ever worked as a judge before and, quite possibly, harder than I had ever worked as a barrister before, in order to finish the report, which we all wanted to do. We have finally done it. It is now a matter of listening to the reaction of everybody in sight.

Q51 Chair: With that in mind and, of course, praying that no circumstances like that happen again, would you do it again if you were asked to?

Lord Saville: Well, if someone wrote me a letter tomorrow, I think I might think twice before I said yes. I do not regret doing it. It was an amazing thing to do. Some of it—well, a lot of it—was very hard work. A lot of work went on and on and on, because there was simply so much to look at but, in the end, we came through the other side, we wrote a report, and I do not regret the time I spent on the Bloody Sunday inquiry for one moment. I was very privileged to be asked to conduct it.

Q52 Chair: Well, can I, on behalf of the Committee, then, thank you very much for your time today, congratulate you on the detail of your work, and wish you a very happy retirement—I think it is semi-retirement, to be absolutely correct.

Lord Saville: It is a bit semi at the moment; they have not quite got rid of me in the Supreme Court yet, and I will be back judging a few cases. Thank you very much for your kind words, and may I thank all members of the Committee for the interesting and, indeed, challenging questions that I have done my best to answer.

Chair: Thank you very much. Meeting closed, thank you.

Supplementary written evidence from the Rt Hon The Lord Saville of Newdigate

Thank you for your letter dated 19 October 2010 enclosing a transcript of my answers to the Northern Ireland Affairs Committee.

There are two matters.

Firstly, on page 1 of the transcript, in the course of the discussion on security, I am reported as saying that credit was due to members of the Northern Ireland Office, when we handed over the report for safekeeping before the election. In fact the report was not handed over before the election but was kept in the custody of the Inquiry. It was not delivered to the Northern Ireland Office until the day before publication. The Secretary of State's advisers were allowed to review the report before it was delivered in order that they might advise him whether publication would damage national security or infringe human rights, but the review was carried out at the Inquiry's offices and the advisers were not permitted to take copies of the report out of the building. I had intended to refer to the fact that the work undertaken by the Secretary of State's advisers did not result in any leaks.

Secondly, on page 9 of the transcript it is reported that I was asked whether it was right to set limits to how much lawyers can be paid an hour in an inquiry, and I answered that I did not see how you could.

I clearly misunderstood the question, for my answer went instead to the question of the overall cost of lawyers in an inquiry like the one under discussion. The position as regards hourly rates and the remuneration of lawyers was as follows.

The Solicitor to the Inquiry set limits to the hourly rates and to the number of hours chargeable by the lawyers representing interested parties, other than those funded by the Ministry of Defence under arrangements for which the Inquiry had no responsibility. These limits were contested for some time but were ultimately accepted by most of the lawyers; in certain cases in which litigation was threatened or commenced, a global settlement was reached. The rates payable to Counsel to the Inquiry were negotiated by the Solicitor to the Inquiry, and I believe that they were approved by the Northern Ireland Office. The solicitors, Eversheds, were appointed and their rates agreed, following a competitive tendering process.

The Inquiry engaged costs draftsmen and employed a costs solicitor, whose task was to scrutinize and where necessary challenge, the bills submitted.

In these circumstances the lawyers were not permitted to charge for an unlimited number of hours, either at a rate of their own choosing or at an unchallenged going rate. In my view there was effective control over the cost of lawyers. The fact that the overall cost of lawyers was so high is a reflection of the size and complexity of the Inquiry; not of any failure by the staff of the Inquiry to maintain proper control over the remuneration of lawyers.

The Northern Ireland Office would of course be able to give additional details of the arrangements made with lawyers, if the Committee wanted further information on this topic.

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