

**BEFORE THE CORONER FOR NORTHERN IRELAND**

**MR JOSEPH McCRISKEN**

**THE INQUEST TOUCHING UPON THE DEATH OF**

**MR JOSEPH PARKER**

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**Introduction**

[1] Before I begin to deliver my findings with respect to the death of Mr Joseph Parker I firstly want to give appropriate thanks to Court Service and Coroners Service staff, in particular my investigator Ms Logan, and to all those who have been concerned in the preparations for this inquest.

[2] This has been a long and difficult exercise and I wish to pay tribute to my Counsel Mr Daly BL and my Solicitor Ms Lloyd-Stevens, Mr Coll QC, Mr Fletcher BL and Solicitor Ms Meegan, who represented the Ministry of Defence, and Ms Doherty QC, Mr Fahy BL and Mr Ó Muirigh, Solicitor, who represented Mr Parker's family. Each legal team have gone about their task in a professional and dedicated way and have tested the evidence in this difficult inquest in a sympathetic and sensitive yet robust manner. They are a credit to their profession and proof, if it were needed, of the high standard of legal representation available in Northern Ireland.

[3] I wish to recognise the resolve and determination of the Parker family, especially Mr Parker's sister Teresa and daughters Joanne and Charlene. They have waited almost 46 years for a new inquest into the circumstances of Mr Parker's death and I hope that these findings provide some measure of closure.

## Relevant law

[4] Rule 15 of the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963 (the 1963 Rules) 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 I have considered whether or not 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 ('the Convention'). 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. A coroner in Northern Ireland cannot make a finding that a substantive right under the Convention has been breached. Rule 16 of the 1963 Rules prevents such a finding.

[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 by an agent of the State 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. Mr Joseph Larkin, Mrs Geraldine McClean, Ms Phyllis Doherty, Mr John McMahon, Mr Daniel Deeds, Mr Guest, Mr Gerard Magee, Mr John Craig and Mr Felix Brennan all provided their first statement to the Coroner's Investigator within the last 12 months. 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. Some of these difficulties were apparent during the inquest when inconsistencies in witness evidence became all too apparent. 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. Witnesses can appear entirely credible and believable since they are recalling events that they genuinely believe occurred in the manner in which they recall them. However, recall after almost half a century is most likely to be inaccurate and unreliable. Horner J, delivering his findings into the death of Patrick Pearse Jordan [2016] 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 almost 46 years have passed since the events which are under detailed consideration took place, in the Jordan inquest a mere 25 years had passed. 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 tragic night 10 December 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 majority of the soldiers and some civilians have not been capable of proper assessment because those soldiers have not been traced and did not give oral evidence at the inquest while also recognising that these are the only contemporaneous accounts available.

### **Background**

[15] The original inquest into Mr Parker’s death took place on 15 June 1972 in the Crumlin Road Courthouse before the Coroner Mr. Elliott sitting with a jury. An open verdict was recorded. The Parker family have disputed some of 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, a useful new investigation into the circumstances of Mr Parker’s death and reported in 2009.

Following a request from the Parker family, on 25 September 2013, 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 Mr Parker's death.

### **Inquest evidence**

[17] I consider that a brief summary and discussion of the evidence heard during the inquest will assist the reader in understanding the narrative findings which follow. 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. My findings, instead, are those factual matters of which I am satisfied occurred based upon the relevant standard of proof.

[18] At inquest I heard oral evidence from a number of witnesses and some statements were read under Rule 17 of the 1963 Rules. Statements that were made in 1971 to the Royal Military Police by Soldiers A, C, D, E, F, G, H, I, J, K, and L were read at the inquest and admitted under Rule 17 of the 1963 Rules. Only one soldier has been traced, Soldier B, and he gave oral evidence at the inquest.

[19] Soldier A provided a statement which was considered at the original inquest. He did not give oral evidence. It has been established that Soldier A is Captain Barton, Company Commander with the Queen's Lancashire Regiment, who is deceased. Captain Barton said that on 10 December 1971 at approximately 10.30pm he was in charge of a 'blackface' patrol in the Butler Street area of Ardoyne. Captain Barton said that he went into Toby's Hall because he had reason to believe that a wanted man might be present there. When he entered the club with five other men he saw that the hall was full of people. The majority of these people were seated. Captain

Barton said that he was approached by a priest who suggested that he should leave. He informed the priest that he “wanted to have a quick look around”. Captain Barton then moved to the right of the doorway to have a look around. Almost immediately the band, which was at the right hand end of the hall, began to play and people took to the dance floor. Captain Barton believed that the dancers were trying to split the military party. At the same time he saw a number, aged in the mid-thirties, approach him. He said that it was obvious at this point that there was going to be trouble. Captain Barton said that he was kicked by some of the dancers and as he turned to tell Soldier B that they should back out of the hall they were attacked.

[20] Captain Barton said that he was mobbed by the crowd and punched several times in the face. At this point he heard the sound of a Self-Loading Rifle (SLR) being fired from behind him. He was then dragged to the left hand corner of the hall. As he was being held down he struck his rifle off the ground causing a shot to fire. He said that this shot must have gone into the roof. He was able to free himself and just before he got up he heard other shots being fired. Once he got to his feet he saw that most of the people in the hall were lying on the floor. Soldier B had sustained head injuries. All of the patrol then exited the hall and withdrew along Butler Street. Captain Barton reported the circumstances to Headquarters (HQ). When he informed that a male civilian had been injured he tasked medical assistance to be sent to the scene. A civilian ambulance arrived.

[21] Soldier B was traced and gave evidence to the inquest. He provided a statement to the RMP in 1971 as well as an account to the Coroner’s Investigator. At inquest Soldier B said that he was a sergeant in 1971 in C Company of the Queen’s Lancashire Regiment. He said that he was a member of a foot patrol which had been given a specific task to go to Toby’s Hall, Butler Street, Ardoyne as there was

information to suggest a wanted man would be there. According to Soldier B he was briefed by the operations room at Flax Street Mill minutes before going out on patrol. The briefing was simply that he was part of the patrol and they were going to Toby's Hall to arrest a certain individual. He was not shown any pictures of this man and it would have been Captain Barton's task to identify him.

[22] Soldier B said that the wanted person did appear to be in Toby's Hall as he thought that Captain Barton had recognised him with another man on a staircase at the back of the hall. Soldier B recalled that upon entering the hall he and Captain Barton went in while three other soldiers remained at the door. He had not expected to see between 200-300 people in the hall as they had not received this information before departing from Flax Street Mill. He said that certain dancers attempted to separate the patrol and members of the crowd attempted to grab hold of Captain Barton's rifle.

[23] Soldier B said that he sustained many injuries that night and showed some of his scars via the video link when he gave evidence at the new inquest. Soldier B described firing two aimed shots into the roof. He said that when he discharged his firearm he looked at the target which was the roof and fired two straight shots without taking his eye off the target. He was not aware of anyone being injured as a result of these discharges.

[24] These discharges had the desired effect in that the angry crowd became less aggressive and got down on the floor. He said that he did not think he had caused any injuries but may have lashed out with his arms and legs during the struggle. He said that he did not hit anyone with his rifle. Soldier B said that he was in fear for his life and that of Captain Barton when he discharged his firearm.



[25] Soldier C provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier C could not be traced. Soldier C said that he was also a member of the black face patrol commanded by Captain Barton. He said that they entered the hall to carry out a routine check for a wanted man who it was believed was on the premises. Soldier C was the third member of the patrol to enter and he was behind Captain Barton and Soldier B. He described Captain Barton talking to the priest and then moving to the right of the door. He said that the band then started to play and people started to dance. He walked through people who were dancing until Captain Barton was attacked and knocked to the ground. He said that Captain Barton was dragged away and that he went with Soldier B to try and make the attackers stop. He struck one man with the butt of his rifle and he was being attacked with bottles and glasses.

[26] Soldier C then said that he heard a shot being fired from the direction of the door behind him. He said that it sounded like an SLR and that he could not see who fired it. People lay on the floor and he shouted for them to stay there. After a few seconds people started to get to their feet again and continued to attack the military patrol with bottles and glasses. He was able to regroup at the door with Soldier B but Captain Barton remained in the left hand rear corner of the hall. Soldier C said that because of the danger to Captain Barton and the rest of the party he fired three rounds from his SLR into the roof above the door. Some other members of the military patrol also fired their weapons. This firing stopped the crowd from running at the patrol but glasses and bottles were still being thrown and Captain Barton was still being held down by "about three men". Soldier C then shouted at these men to release Captain Barton and pointed his rifle at them. When the men did not release Captain Barton Soldier C fired two rounds approximately 6 feet above the heads of the men toward the left hand corner. He said that he saw the rounds strike the wall and that they did not ricochet. Captain Barton was able to get away and the entire patrol made its way outside.

[27] Soldier D provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier D could not be traced. Soldier D was the fourth member of the patrol to enter the hall. He also described the hall as being full of people. He said that as members of the patrol made their way across the dance floor they were jostled and jeered by the crowd. He pushed a woman aside who had come between him and the soldier he was following. He then saw a number of men trying to get Captain Barton onto the floor. He could not see Soldier B. He saw Soldier C going forward to assist Captain Barton and at that stage he heard shots being fired. He said that he could not be sure where the shots were coming from but was then hit in the face by a glass and attacked by members of the crowd. He heard other shots being fired in front of him. He said that he thought shots had been fired to deter the crowd from attacking the patrol and for the same reason he fired four shots into the air above the heads of the crowd toward the right hand end of the building. He did not see the rounds strike but aimed them at the wall. He then managed to get to the door and upon seeing that Captain Barton and Soldier B were still inside he ran to a window to the right of the door outside and fired three more rounds up through the top part almost straight up to the ceiling. He saw that Soldier B had been injured and his face was covered in blood.

[28] Soldier E provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier E could not be traced. Soldier E said that he was at the rear of a five man patrol that entered Toby's Hall to look for a wanted man. He saw that the hall was mostly full of youths but that some adults were also present. He said that the people inside began to chant "out, out, out" at the patrol. He described how the band started playing and bottles and glasses were thrown at the patrol. He moved back to the door and saw Soldier B get hit on the head by a bottle. This bottle cut Soldier B and blood was running down his face. He then saw that

Captain Barton was being held down by several people. Soldier E then described hearing several rounds being fired by Soldier C who was in front of him with Soldier D. Soldier E then described seeing a man about to throw a glass and in response he fired one round into the ceiling. After being grabbed by a male person he broke free and made his way outside the hall taking cover behind a van.

[29] Soldier F provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier F could not be traced. Soldier F said that he remained outside the hall while a five man patrol entered. He heard what sounded like people stomping their feet and jeering before he heard bottles and glasses being broken inside the hall. He then entered the hall to see a crowd of people on the dance floor were mobbing soldiers from his unit. He saw Captain Barton being knocked to the floor and the rest of the patrol being attacked by people throwing bottles and glasses. He forced his way across the hall to the rest of the patrol. One of the Lance Corporals (Soldier C or Soldier D) said they should retreat to the door which he did with one of the Lance Corporals. Captain Barton was still being attacked and as they started to move toward him a shot was fired. He thought it was from a position in front of him inside the hall. He said that Soldier B had injuries to his head. As Captain Barton was still being attacked and the crowd was still hostile Soldier F fired two rounds straight up to the roof to deter them. He said that as a result the crowd stopped and Captain Barton broke free.

[30] Soldier G provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier G could not be traced. Soldier G was deployed on the corner of 72 Butler Street as part of a cordon to provide cover to a search party who were going to enter Toby's Hall. Soldier G said that the purpose of the search party was to arrest a wanted person who was in the hall. He saw the search party enter through the Butler Street entrance. Soldier G described how he heard the band

stop playing and then the hall sounding like it was in uproar. He heard glass smashing and furniture being busted. After about 30 seconds he heard four or five shots coming from inside the building. He described then hearing a burst of automatic gunfire and holes appearing in the boarded up window near the door on Butler Street. The rest of the patrol came out through the door and Soldier B had a head injury. Soldier G then described how a man ran out of the fire exit of the hall and how he and Soldier H fired shots in the air to deter a crowd outside the hall.

[31] Soldier H provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier H could not be traced. Soldier H, like Soldier G, was positioned outside the hall providing cover to the patrol who entered. Soldier H described the search party entering the hall and then hearing people inside shouting "out, out, out". This noise lasted for about a minute and then the band began to play. The crowd noise died down and some girls ran out of the club. Soldier H said that the band had played for about two minutes when he heard a burst of fire from inside the building. Two bullets came through the boarding of the window to the right side of the entrance. Soldier H described further shots and screaming from inside the hall and then two members of the search party exiting the hall followed by Soldier B, under a hail of bottles and glasses. Some people from inside the hall then exited from the fire exit onto Brookfield Street.

[32] Soldier I provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier I could not be traced. Soldier I was positioned in an alley to the rear of 70 Brookfield Street. He had been in position for about 5 minutes when he heard shooting from inside the hall. This was followed by a burst of automatic gunfire from inside the hall. One of the bullets which exited through a boarded up window to the right of the entrance door narrowly missed hitting

Soldier I. When a crowd came out of the hall Soldier I fired into the air along with Soldiers G and H to try and disperse them.

[33] Soldier J provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier J could not be traced. Soldier J described being a member of a foot patrol which was close to some derelict buildings in Butler Street near the junction with Flax Street. He said that he could see along Butler Street to the hall which was 200-250 meters away. There was some light in the area from a fire. Soldier J said that he saw a man run out of the hall. This man was wearing a long light brown coloured coat which came down to his ankles. He was tall and slim with dark hair and was carrying a weapon with both hands which appeared to be a rifle. This man then fired four or five shots at no particular target from the pavement outside the hall before running back into the hall. Shortly after this Soldier J described hearing gun fire from inside the hall.

[34] I do not consider the evidence provided by Soldier J to be reliable. Soldier J, on his own admission, was approximately 200-250 yards away from Toby's Hall in circumstances in which there was no light being provided by streetlights. I heard evidence that it was "pitch black" in Ardoyne at that time. I consider that Soldier J is mistaken in his observations and that he is mistaken about there being a man with a gun.

[35] Soldier K provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier K could not be traced. Soldier K was a doctor with the QLR and was tasked to the hall in a military ambulance to collect a civilian ambulance. He said that on getting to Butler Street and Brookfield Street a crowd of people tried to get into the ambulance and he had to move location. He noted that on

returning to base Soldier B and Soldier E had received injuries. He described how Soldier B had been knocked unconscious with a wooden chair and sustained head injuries which required stitches. His statement then mentions that Soldier C had sustained a minor laceration to the scalp which did not require stitches. Soldier K does not mention how Soldier E was injured.

[36] Soldier L provided a statement which was considered at the original inquest. He did not give oral evidence. Soldier L could not be traced. Soldier L was responsible for issuing ammunition to members of the platoon who were involved in the incident at the hall. On 11 December 1971 Soldier L re-issued twenty seven rounds of ammunition from the unit armoury.

[37] Those soldiers who entered Toby's Hall and opened fire admit to firing 18 rounds of ammunition inside the hall.

[38] Some witnesses came forward to give evidence at the new inquest without having provided an account previously. I have not sought to summarise all this evidence. I did not find the evidence of Mr McMahon reliable although I do not doubt that he gave his evidence honestly. I also considered the evidence of Mr Guest to be useful but he was not an eye witness to the events.

[39] Mr Gerard Magee did not provide an account in 1971 but provided a statement in 2017 after having read about the inquest in a newspaper. He gave evidence at the new inquest. Mr Magee was 17 years old in 1971 and went to Toby's Hall on 10 December with friends. He described hearing a lot of commotion and one English accent yelling "Get the fuck down, stay down, stay where you are". He said that

within a minute or so of the yelling there were very loud bangs. He saw six or seven soldiers but there could have been more. Mr Magee told the inquest that he saw one clearly who had very blonde hair. When the bangs started, the blonde hair soldier jolted backwards and the expression on his face changed in anger but he did not know if it was him who fired a weapon. Mr Magee said that he didn't see any soldiers shooting and did not see any other weapons in the hall that night.

[40] Mr Daniel Deeds attended a witness surgery held by the Coroners Service on 28th September 2017 in Ardoyne Community Centre. He had not provided an account before and gave evidence at the new inquest. Mr Deeds said that he would only have known Mr Parker and his family to see. Mr Deeds had lived in Brookfield Street, close to Toby's Hall but on 10 December 1971 he was living in Andersonstown. While Mr Deeds was in Toby's Hall he saw a man called Sean Meehan and two others enter. He described that after entering they turned right and walked towards the toilets. Mr Deeds said that he didn't really know these people but knew of them and knew that they were connected to the IRA. Mr Deeds said that at the time he had assumed that the military foot patrol had followed these men into Toby's Hall. This evidence correlated with a military report produced after the shooting which also mentioned Sean Meehan as the man the patrol were hoping to speak to. I consider that this was not a coincidence but provides support for the assertion that the patrol had a particular task that night, to speak to Mr Meehan. In that regard the evidence of Mr Deeds was extremely important and justifies the usefulness of the witness surgery.

[41] Mr Deeds told the inquest that the soldiers initially stood by the entrance doorway. There were three or four of them. They were only there a matter of minutes when he saw a bottle being thrown from the middle of the room towards them. After the initial bottle he said that "everything followed" including pints and

ashtrays. He then described hearing a bang, a high velocity gunshot. This shot was followed by more shots which were just not as loud. They appeared to be duller and he assumed they were from outside but could not be sure.

[42] Joseph Larkin did not provide an account to the original inquest but provided a statement in 2017 and gave evidence at the new inquest. He said that he was at Toby's Hall but did not actually see the soldiers as they initially entered. He described that seven or eight soldiers entered and it was as if they were looking for somebody. They didn't come in with any urgency or panic and he described them certifying personal identification. Mr Larkin recalled seeing someone's right hand throwing something at one of the soldiers which he thought was a burger. Bottles were then thrown. Mr Larkin described how a sergeant with the patrol fell over and toppled his table. He told the inquest that he knew he was a sergeant because of the stripes on his arms. Mr Larkin thought that another soldier panicked at this point because the sergeant was on the ground and opened fire. Mr Larkin could not recall if the sergeant or the other soldier said anything but said that even if they had the noise was too loud to have heard.

[43] Mr Larkin described the soldier who opened fire as very young and said that he had his back to the entrance door. He was holding his Self-Loading Rifle (SLR) at waist height and shot single shots from right to left. He moved his weapon as he continued to fire. Mr Larkin said this soldier appeared to shoot indiscriminately.

[44] Ms Mary Doherty came forward to give evidence following an appeal for information in the media. She said that she was present for the dance in Toby's Hall on 10 December 1971 and was standing talking to Father Augustine Hourigan when



the soldiers entered. She said that the first soldier who entered took a moment to assess the situation and may have been frightened by the number of people he saw.

[45] Although I consider that Ms Doherty was trying to be truthful in giving her evidence it was clear to me that her recollection was poor and had perhaps been contaminated by reading accounts of the shooting on the internet. I attach very little weight to her account other than to say that her observation regarding the reaction of one of the soldiers to the size of the crowd corroborates what Soldier B said in evidence.

[46] Ms Geraldine McClean also provided a statement following a media appeal. She described being in Toby's Hall on 10 December 1971 when she was 16 years old. She described hearing cracking noises and was not aware straight away that it was shooting. It was only when people around started diving to the floor that she realised and followed suit. She said that in her opinion the shots were being fired around the room indiscriminately. After the shooting stopped and the shouting and screaming Ms McClean noticed there was blood on Patricia Hale's head. She said that it later emerged that she had been shot by a bullet.

[47] Mr Colin Demet was possibly the most controversial witness to give evidence. He had been a member of the Queens Lancashire Regiment for approximately 18 months leaving as a deserter in February 1972. He appeared on television from Dublin after deserting and made a statement condemning the British Army. He cited the "Bloody Sunday" killings as his reason for deserting. It later appeared that he might have deserted to be with a female acquaintance. He later admitted that members of the Official Irish Republican Army (IRA) had written this statement and he was being used for propaganda purposes by the IRA. Mr Demet returned to the

military in January 1973 and was court martialled and imprisoned. He gave bizarre evidence at the inquest about thinking he could be sentenced to death for treason in 1973. This seems to be something he still genuinely believes could have happened. The last executions in the United Kingdom were in 1964 and no-one has been executed since.

[48] Mr Demet claimed that he was part of a military patrol which left Flax Street Mill at around 10pm on 10 December 1971 under the command of Captain Barton. He recalled how he had gone to Toby's Hall and how he had been surprised by Captain Barton's decision to enter the hall. He described how Captain Barton had entered through the door in Brookfield Street rather than Butler Street. The version of events provided by Mr Demet is, in my view, wholly unreliable and I do not intend to summarise it further here. Mr Demet did not enter Toby's Hall at any point and his description of how events took place outside of the hall is questionable at best. After having heard his evidence I was unconvinced that he had even been in attendance in or about Toby's Hall on 10 December 1971. It seemed to me that he had picked up most of his information from the conversations of others after the event.

[49] There was one particular aspect of Mr Demet's evidence which undermined him entirely in my view as a reliable or credible witness and that concerned the reasons for his desertion in 1972. According to Mr Demet he told the IRA all about his observations at Toby's Hall when he deserted but IRA members were not interested in using this as propaganda. I find this extremely surprising. More likely, I think, that Mr Demet did not actually tell the IRA about events at Toby's Hall because he was not present or did not observe anything relevant. The most tragic aspect of Mr Demet's evidence is that for many years Mrs Watt and her family did believe him and this fuelled further rumours about how Mr Parker had died.

[50] Mr John Craig heard a news bulletin which he said triggered his recall of the shooting in Toby's Hall. Mr Craig was the lead guitarist for a band known as 'The Circle' which was booked to play in Toby's Hall on 10 December 1971. Much like many of the other witnesses Mr Craig claimed to have a vivid memory of the night in question. He said that he recalled Toby's Hall was packed full with at least 200 people present. When the soldiers entered the band had played for an hour and was on a break. Mr Craig was seated facing the back door. He said that the dance floor was empty at this point but when the soldiers entered he was asked to start playing again in order to defuse the situation. The band started playing as requested and people began to dance. Mr Craig said that a priest continued to speak with a member of the military patrol who appeared to be in charge of the others. Mr Craig, in my view, is correct in his recollection of this part of the evening.

[51] As the officer spoke with the priest three soldiers began to squeeze into the hall and make their way around walking through the crowd down the left hand side, they were carrying their rifles in a relaxed upright position resting at hip level. According to Mr Craig the atmosphere was menacing. The soldiers, looking all around the room, were aggressively pushing past people, jostling dancers and causing some to stumble and fall. Most of these dancers were young girls and the crowd to the left side of the hall began to shout expletives at the soldiers. Mr Craig could see scuffles at the back of the hall concerning three other soldiers and the people there. Mr Craig recalled seeing a girl roll up what looked like a potato crisp packet and throw it at one of the soldiers. At the same time he heard the sound of glass breaking. A shot was fired into the air. This did not stop anyone and the crowd continued in a stampede towards the soldiers. I also consider Mr Craig's recall to be broadly accurate about these events.

[52] Mr Craig then described seeing a man being shot by a soldier at close range in the lower abdomen area. For reasons I will explain later I consider that this account is unreliable and is likely to be false memory as a result of the passage of time and innocent contamination. Mr Craig thought that 20-30 rounds were fired within the room within 1-2 minutes. He said that the soldiers continued to fire as they left. He said that there seemed to be a short break in gunfire (30 seconds) and then shooting began outside the hall. I thought Mr Craig was a believable witness. However, some of his recall was not factually accurate and this was demonstrated in court when he was asked to draw a sketch of the layout of the hall without being shown any photographs or a sketch map. His sketch was inaccurate and even when he was shown the photographs in court he still struggled to accept that his memory was incorrect. Mr Craig was a good example showing how difficult these legacy inquests are in terms of assessing witness reliability and credibility. Most of his recall was broadly accurate but in one crucial aspect I consider he was incorrect when his memory was compared against the cold hard facts of the post-mortem report.

[53] Mr Felix Brennan was a fellow band member in 'The Circle'. He recalled an Army Officer walking into the hall with four or five other soldiers at his side. They all had camouflaged faces. They were looking at everyone inside the hall. The people inside the hall did not welcome them and he recalled them shouting and standing on their feet. The soldiers held their weapons (rifles) close to their chest in an upright position. Mr Brennan told the inquest that there was a priest at a table next to the door who stood up and interacted with the soldiers. The entertainments manager asked the band to quickly get up and play. The band began playing and people got up to dance.

[54] Mr Brennan recalled a few soldiers came up the left hand side of the room and baton rounds being deployed (four or five rounds). He said he observed a soldier

with a baton gun at the back of the hall. These were the first rounds fired according to Mr Brennan and they were fired at head height. He said that one soldier knelt down and fired 2 shots into the air. Mr Brennan then described seeing a man coming across from his left. It appeared as if he was clambering through or over tables to get to another table. Mr Brennan said that the kneeling soldier then fired his weapon at an upward angle as if deliberately targeting this man. The man was shot in the stomach area. Similarly to the evidence of Mr Craig I do not consider this part of Mr Brennan's evidence reliable. At the inquest he mentioned having spoken to his band mates after the shooting in 1971 and having had a conversation about ten years ago about Mr Parker. I think that the evidence of Mr Brennan and Mr Craig, although honestly given, has been contaminated over the years rendering some important aspects unreliable.

[55] Some non-military witnesses provided accounts in 1971 but have either not been located or have since died. Their statements were read in accordance with Rule 17 of the 1963 Rules.

[56] David Wells Beattie and Reginald Cole were ambulance personnel attached to the Ardoyne depot. On 10 December 1971 they were asked to attend a call in Butler Street. On arrival Mr Beattie described a crowd of people on the street and as a result he was directed to a location by persons on the street. He said that there was no shooting ongoing at that time and described a crowd of approximately 200 people in the street. Mr Beattie entered the hall and saw a male person conscious lying in the middle of the hall covered by a coat. Mr Beattie lifted the coat and saw the male had extensive injuries to his groin area and that he had lost a lot of blood. The male person's clothes were saturated with blood. The male person gave his name as Joseph Parker. Mr Parker was placed onto a trolley and taken to an ambulance

before being conveyed to the Mater Hospital in Belfast. Mr Beattie said that two other injured persons were in the back of the ambulance with Mr Parker.

[57] Father Ailbe Delaney was a local priest who provided a deposition for the original inquest. He said that on the night of 10 December 1971 he was in the monastery close to Ardoyne when he was informed that there had been a shooting incident at Toby's Hall. Fr. Delaney went to the hall arriving at approximately 10.45pm. On arrival he found a group of anxious friends trying to get into the hall and hysterical people trying to get out. Fr. Delaney obtained six bullet casings, two from inside the hall and four from outside the hall.

[58] Dr George O'Neill was working as a doctor in the Mater Hospital, Belfast on the evening of 10 December 1971. Mr Parker was admitted to the Mater Hospital Casualty Department at 11:10pm. On admission Dr O'Neill noted Mr Parker's pulse to be weak and his blood pressure was not recordable. Mr Parker's injuries were noted and he was given 12 pints of blood. His condition did not improve and he was taken to theatre for surgery. His wounds were explored and packed and the fractures reduced. However, on his return to the ward Mr Parker's condition failed to improve and in spite of strenuous efforts at resuscitation Mr Parker died at 3:15am on 11 December 1971.

[59] Constable Albert Isaac Fleming was a police scene of crime officer who attended Toby's Hall on 11 December 1971 following the death of Mr Parker. Mr Fleming was accompanied by police photographer Constable Johnston. Upon his arrival Constable Fleming was handed a number of items by Mr Pascal O'Hare, Solicitor, including 28 cases of .762 ammunition found outside the hall.

[60] Constable Fleming then examined the inside of the hall and noted that there were holes in the roof which appeared to have been made from the inside. He noted there was damage on the hardboard covering the windows of the hall inside. He thought that the fragmentation of the covering extended inward and that this was suggestive of something having passed through the covering from the outside. He noted a bloodstained area on the floor and found a green army type beret. Constable Fleming also noted bottles and broken glass covering the floor of the hall. A number of photographs were taken.

[61] At inquest Constable Fleming give oral evidence about the bullet holes in the walls, roof and windows. He said that he had only been a scene of crime officer for a short time prior to this and he had asked for a more senior person to attend to examine the bullet holes. Constable Fleming was content to say that the holes in the roof had been made by bullets but was reluctant to comment on the other holes. He did think that the holes in the windows had been made by something being fired from the outside. It was unclear if all the bullet holes had in fact been photographed and examined. I have examined the booklet of photographs closely. It seems to me that there are bullet holes not only in the roof but also in some of the walls at below head height. There are also a number of holes in and around the entrance door.

[62] Patricia Hale was a schoolgirl at the time of the shooting. She provided a deposition for use at the original inquest and also gave oral evidence at this inquest. In her deposition she said that on 10 December 1971 she had gone to a dance at Toby's Hall. She arrived at the dance at about 8pm. At about 10pm she saw five soldiers come into the hall. Three other soldiers stood at the doorway talking to a priest. The soldiers then started to push through the dancers to get to the other side of the hall and a number of tables were knocked over in the process. The three soldiers got as far as only 4 yards when shooting began. Ms Hale described the

shooting as having come from the direction of the door. She was standing near the door when a bullet grazed the left side of the forehead. She believed that the bullet was fired from the direction of the doorway into the hall. She fell to the ground at this point. Ms Hale went on to say that she could not say how many shots had been fired. Ms Hale attended the Mater Hospital and was treated for her injury. At inquest Ms Hale frankly accepted that she had very little recall of the incident at Toby's Hall, even having had her memory refreshed by reading her original deposition she was unable to recall many more details about what happened that night.

[63] Margaret Mary Todd provided a deposition to the original inquest. Ms Todd could not be traced and did not give evidence to this inquest. Her statement was admitted under Rule 17. Ms Todd said that she arrived at Toby's Hall at about 8:15pm on 10 December 1971. When she arrived there were approximately 300 people in the hall and a large number of those people were dancing. At about 10:30pm some soldiers entered the hall. Ms Todd described hearing someone shout "get down" but was unable to make out who said it. She said everyone then fell to the ground. Ms Todd then described hearing the sound of shooting but was unaware where the shooting was coming, from. She described everyone in the hall panicking and screaming. Ms Todd then found out that Joseph Parker had been shot dead. As result of the incident a piece of glass had entered Ms Todd's left shoulder blade and she received treatment at the Mater Hospital for this.

[64] Teresa Watt provided a statement to police in 1971 and also a new statement for use at this inquest. Mrs Watt gave oral evidence to this inquest. In her original statement Mrs Watt, the sister of Mr Parker, said that she was at the dance at Toby's Hall on 10 December with Mr Parker, Mr Francis Cosgrove and another lady. She said that between 10pm and 10:30pm she was dancing with her brother Mr Parker



when approximately five soldiers entered the hall through the front door. Mrs Watt said that the soldier in charge began to speak with Father Hourigan. Mrs Watt said that people stopped dancing and began to watch the soldiers. It was then announced over a speaker that the dancing was recommencing and the band began to play music again. Mrs Watt said she then saw a soldier who had been talking to the priest push past the priest and move onto the dancefloor followed by four other soldiers. She heard tables and chairs being knocked over and the sound of breaking glass. Mrs Watt then said she heard what sounded like shots and both she and Mr Parker threw themselves on the floor. Mrs Watt said she could see a soldier at the door, he was down on one knee and had his gun about waist height. He fired a number of shots from left to right. According to Mrs Watt, the soldiers then left the hall and she turned and saw her brother slumped over with his head nearly touching his feet. She realised he had been shot. At the inquest and in her most recent statement Mrs Watt described the soldier who shooting as having blonde hair.

[65] Francis Cosgrove was Mr Parker's uncle. He provided a statement to the police in 1971. In this statement, which at this inquest Mr Cosgrove denied making, Mr Cosgrove said that he had been at Toby's Hall on 10 December with Mrs Watt and his nephew Mr Parker. He said that at about 10:30pm as Mr Parker and Mrs Watt were on the dancefloor he left the dancefloor to go to the toilet. As he did this he saw between five and seven soldiers come into the hall by the Butler Street entrance and saw one of them talking to a priest. Mr Cosgrove said that he watched while the soldier pushed past the priest and walked toward the centre of the hall. People were dancing at this point. He said that the soldiers then began to panic and began shooting. He said that he did not see any soldiers being assaulted or falling to the ground before the shooting began. Mr Cosgrove described diving to the floor and remained flat on the ground. He heard between six and eight shots being fired within the hall, and then a further five or six shots were fired. Mr Cosgrove got up and ran to the door where he saw Mrs Watt standing beside Mr Parker who was

lying in a pool of blood. Mr Parker was unconscious. Mr Cosgrove then tried to leave the hall to get help but was pushed back in by a soldier. He said the soldier threatened to open fire and after that he heard two or three gunshots outside of the hall.

[66] Mrs Elizabeth Donnelly provided a statement for use at the original inquest. She said that at 10:15pm on 10 December 1971 she attended Toby's Hall and met her friend Teresa Watt. Mrs Donnelly said that at some point after 10:15pm Mrs Watt asked her to go outside to get some cigarettes. As they were about to leave the hall about four soldiers entered the hall and she could see further soldiers outside on the porch. Mrs Donnelly said that the tallest of the soldiers spoke to Fr. Hourigan and she could overhear Fr. Hourigan telling the soldier that this was just a social evening. The soldiers then moved past the priest and continued walking into the hall. Mrs Donnelly said that both she and Mrs Watt decided not to go and get cigarettes and instead Mrs Watt began to dance with her brother Mr Parker on the dancefloor. The taller of the soldiers pushed well into the middle of the dancers. Mrs Donnelly said that she watched as a soldier appeared to fall. According to Mrs Donnelly when the soldier fell, people got up from their seats to see what had happened. She said that she saw a fair-haired soldier at the door kneeling down on one knee and he began to fire his gun. She said he had his gun straight out in front of him and then everyone began screaming and she dived to the floor for cover. Mrs Donnelly then said she heard the noise of bottles being thrown and the men in the hall were shouting at the soldiers. Mrs Donnelly said the only soldier she saw firing a gun was the fair-haired soldier and that he looked, in her words, very panicky.

[67] Joseph McAllister provided a statement for use at the original inquest. Mr McAllister is now deceased. He said that he was at Toby's Hall on Butler Street on 10 December 1971. He was seated at the table halfway up the hall facing toward the

band when he saw soldiers enter at approximately 10:30pm. He said he saw the bigger of the soldiers talking to Fr. Hourigan. This soldier then walked past the priest and moved into the middle of the hall. Mr McAllister then said people from within the hall began to shout "out, out" at the soldiers. Mr McAllister said that the tall soldier was pushing through the crowds and tried to walk in the direction of the dancers. Mr McAllister said that the tall soldier seemed to stumble and as he stumbled he fired a shot in the air from this rifle that was in front of him and across his chest at an angle pointing upwards. Mr McAllister described the scene as panic with the crowd trying to take cover while a second soldier behind the first began shooting. This soldier was crouched down and kneeling. He swivelled his gun as he was shooting.

[68] Mr McAllister made for cover behind a table but could still see the second soldier shooting. He described the soldier as having blonde hair and he was a lot smaller than the first soldier who had stumbled. He saw two other soldiers shooting upwards into the ceiling.

[69] Francis Johnson provided a statement for use at the original inquest. He said that about 10:15pm on 10 December 1971 he was at Toby's Hall. Mr Johnson said he became aware of a priest who was at the door of the hall talking to someone he could not see. He said he saw three soldiers walk past a priest and enter into the hall. The soldiers advanced further into the hall and the crowd began shouting "out, out, out" at the soldiers. The soldiers then separated with two of them walking down the middle of the hall and the other walking to the left of the hall.

[70] Mr Johnson described two soldiers remaining together, one had blonde hair and one was very tall, well built and possibly a sergeant. The blonde haired soldier made

for the centre of the hall and the tall soldier was at the top of the hall. The tall soldier was moving between the tables on the dancefloor. Mr Johnson said that the dancefloor was very crowded and as the soldiers began moving into the crowd some bottles were thrown at them. Mr Johnson said that the tall soldier got tangled up in a chair and as he was trying to dodge the bottles that were being thrown at him he might have kicked the chair away before he fired two shots from his rifle. The shots according to Mr Johnson were fired high and well above the heads of everyone. When these first two shots were fired everyone fell to their knees including him. Mr Johnson looked up and saw the blonde haired soldier shouting "fuck you, fuck you" before lowering his rifle to waist level and firing towards the wall near the bar. Mr Johnson estimated that the soldiers fired about twelve to fourteen shots and that both soldiers began retreating to the door with the tall soldier firing about four shots on the way. Mr Johnson said that as the soldiers left the hall bottles and glasses were thrown at them before the doors closed.

[71] James Guiler provided a statement to the original inquest. He said that he was at Toby's Hall on 10 December 1971. At around 10:30pm he saw five soldiers walk in to the hall having spoken to a priest at the doorway. He said that as the soldiers walked in to the main hall they were greeted by chants of "out, out" from the crowd. He said that the band started playing again and people got up and began dancing. The soldiers then entered the dance floor and began pushing their way through the dancers. However, due to the amount of people dancing the military party was split up. Mr Guiler described the tallest of the soldiers as being in charge, leading the other soldiers through the hall. Mr Guiler said he watched as a tall soldier was struck on the head with what appeared to be a hamburger wrapped up in a paper napkin. A scuffle then developed involving the lead soldiers and the dancers before the soldier disappeared into the crowd as if he had been knocked to the ground. The other soldiers appeared to be anxious to get to this tall soldier and started hitting people with their rifles.

[72] Mr Guiler said that he saw one of the soldiers raise his rifle and then fire two shots into the roof. As soon as the shots were fired people started throwing bottles at the soldiers. Mr Guiler said that one of the soldiers whom he described as having blonde hair, dropped to his knees and fired at least three shots with a rifle toward the side of the hall immediately opposite the doorway. Mr Guiler made his way to the door but before he got there several more shots were fired and further people dropped to the ground. He found himself about 3 feet away from one of the soldiers who was retreating toward the door. This soldier fired two shots back toward the hall. Mr Guiler said he looked back into the hall to see what the soldier had shot at and described seeing everyone on the ground on top of each other and saw the figure of a man who was lying on his back with his legs spread apart and a large pool of blood began to form between this man's legs. Mr Guiler said he then heard a number of other shots which appeared to come from the first soldier who had fallen down in the hall. He then heard about 15 further shots which were fired in bursts. He then heard the first soldier who by now had got up shout "For God sake stop this" before putting his hand up as a single command to the other soldiers. The shooting stopped and the soldiers made their way out of the building. The tall soldier was last to leave. Mr Guiler said that the soldiers were the only ones to fire that night inside the hall and it was only after the soldiers began firing that people began to throw bottles.

[73] Paul Robinson provided a statement to the original inquest. He said that he arrived at the hall at around 10pm on Friday, 10 December 1971 with his fiancé, his sister and her husband. Mr Robinson said that between 10pm and 10.30pm he was seated at a table when he saw a big soldier come in through the door of the hall followed by three other soldiers who were very small in comparison. All the soldiers had blackened faces. The tall soldier began talking to a priest inside the door. Mr Robinson said that the crowd within the hall then began to shout "out, out, out" and that this only lasted a matter of seconds. The tall soldier made his way past a priest

and started to make his way through the hall and toward the band. The dancefloor was crowded and the tall soldier appeared to fall.

[74] Mr Robinson said three or four rounds of ammunition were fired. He said after a short pause there was further shooting from a soldier at the door. He saw one soldier holding his gun at hip height and spraying the room with bullets. This soldier appeared to be shooting in the direction of the wall opposite the door and appeared to be very excited. He fired several shots and then people began to throw bottles at the door. The photographs appear to show dried liquid on the entrance door which supports this view. According to Mr Robinson, the soldiers kept on firing as they backed towards the door. Mr Robinson also noticed about ten bullet holes in the plywood covering the windows. He thought that bullets had entered from the outside because the plywood had been pushed inwards.

[75] Father Augustine Hourigan provided a statement for the original inquest and also gave evidence to the new inquest. He said he was at the hall on 10 December 1971 when at about 10:15pm a military foot patrol entered. Fr. Hourigan said that he realised the potential danger and went to talk to the commander and asked him if there was anything wrong. He was told by this soldier that he wanted to have a look around. The priest told the soldier that if he entered the hall he would, "not be the most popular person there". However, the soldier was adamant about looking around and walked past the priest into the hall with the other soldiers following him. Fr. Hourigan then heard a scuffle from within the hall and the dancing restarted after a break. He decided to open the door to the outside and was pushed into the street by some of the crowd as they were trying to get out. Fr. Hourigan then heard shots being fired.

[76] In general I prefer the evidence of Mr McAllister, Ms Donnelly, Mr Guiler, Mr Robinson, Ms Todd and Fr. Hourigan (the “original witnesses”) over that provided by those witnesses who did not give accounts at the time but came forward in 2017, (the “new witnesses”). Although the original witnesses did not give oral evidence at this inquest and we were unable to properly test their recollection of events there are two aspects to their evidence which convinces me that they are providing a more reliable account, (1) they gave their written account a matter of either weeks or months after the 10 December 1971 and (2) in general their recollection is similar to the version of events told by the military witnesses.

[77] In support of (2) above, McAllister, Robinson, Guiler, Hourigan (in his oral evidence to the new inquest) and Johnson all say that at some point after the soldiers entered the crowd began to shout “out, out”. Similarly, Soldier E and Soldier H both say that the crowd began to shout “out, out”. On this basis I am absolutely convinced that the crowd began to shout these words at the patrol. In contrast none of the “new witnesses” mention the crowd shouting these words.

[78] Mr McAllister, Ms Donnelly, Mr Guiler, Mr Johnson and Mr Robinson all mention how a tall soldier either fell over or got tangled up in a chair. This is, of course, consistent with the evidence of the soldiers. At inquest the next of kin challenged the assertion that any of the patrol fell over inside the hall. It is hard to see why this was challenged since a number of civilian witnesses confirm that at least one soldier fell over. In fact, Mr Guiler gives an account of a soldier falling and then getting up and firing two shots into the roof which is entirely consistent with the evidence provided by Soldier B.

[79] In my narrative findings below I have relied more heavily on the original accounts provided by civilians and military personnel than those provided by “new witnesses”.

[80] A post mortem examination was performed by the State Pathologist in 1971, Professor Thomas Marshall. He found that Mr Parker had died as a result of a bullet wounds of the thighs. Professor Marshall considered that Mr Parker had been struck on the left thigh, 26” above the soles of his feet, by a single and intact high velocity bullet. This bullet had passed horizontally through the thigh muscle and lacerated the scrotum before it entered the inside of the right thigh. The bullet had then struck bone and fragmented with two fragments exiting 25.5” above the soles of the feet on the right outer thigh. In the opinion of Professor Marshall the resultant loss of blood had caused Mr Parker’s death in hospital some hours later despite intensive treatment and blood transfusions. Professor Marshall told the new inquest that in his opinion Mr Parker had been standing upright when he was shot.

[81] Former State Pathologist Professor Jack Crane provided a report commenting on the original post mortem findings. Professor Crane agreed with Professor Marshall’s findings and agreed that Mr Parker had probably been standing when he was shot and that the high velocity bullet had passed horizontally through the thighs of Mr Parker causing massive haemorrhage and death.

### **Narrative Findings**

[82] Joseph Patrick Parker was born on 27 April 1946 and was aged 25 at the time of his death. He was known to his friends and family as Jo-Jo. He was married to



Dorothy and they lived together at 21 Eskdale Gardens, Belfast. At the time of his death he was a father to one child, Joanne who was approximately 18 months old, and was due to be a father for second time. Dorothy gave birth to their second daughter, Charlene, on 13 March 1972. In the months before his death Mr Parker had been working as a labourer in the Harbour Estate area of Belfast with his uncle and best friend Francis Cosgrove. Mr Parker was described to me as a quiet family man who was a hard worker. He was very much loved by his family.

[83] The year of Mr Parker'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 two years. British Army personnel had been deployed onto the streets since 1969.

[84] In February 1971 Mr Parker's brother-in-law Bernard Watt was shot dead by a member of a military patrol in controversial circumstances. In August 1971 a policy of internment without trial was commenced in Northern Ireland. This caused a huge degree of resentment towards the British Government and the British Army. Mr Joseph Parker Senior was interned in 1971 as well as other residents of Ardoyne. When the military patrol entered Toby's Hall considerable tension had built up within the community in Ardoyne and there was a high degree of resentment toward the military.

[85] I was told that the Queen's Lancashire Regiment had only arrived in Northern Ireland about ten days before Mr Parker was shot, replacing the Green Howards. It seems to me that there was a degree of naivety and inexperience among this regiment regarding the situation they faced in Northern Ireland. Soldier B

acknowledged this when he gave evidence. He said he felt more at risk in Northern Ireland than he did on previous tours in Aden and Saudi Arabia.

[86] Having considered the evidence at inquest I am satisfied about the following to the required standard of proof.

[87] On the evening of 10 December 1971 Mr Parker went to a venue known as Toby's Hall in Ardoyne. He was accompanied there by his sister Teresa Watt and his uncle, Francis Cosgrove. A dance had been organised to take place in Toby's Hall that night and there were approximately one hundred people present, most of whom were young people. A band named "The Circle" was providing entertainment and alcohol was available from a small bar in the hall.

[88] At approximately 10.30pm a patrol of five soldiers from the First Battalion Queen's Lancashire Regiment entered Toby's Hall. Another member entered the hall a short time later. Ten other members of the patrol waited outside. This was a "black face" patrol. The soldiers wore a black substance on their faces and black berets instead of armoured helmets. I am satisfied that the patrol entered the hall looking for a particular individual who it was believed would be present. Captain Barton, who was the tallest member of the patrol and the commander, and Soldier B entered the hall first followed by the other members of the patrol. They had not anticipated that there would be so many people present in the hall and they had not been provided with this information when they left Flax Street Mill. I am satisfied that, for this reason, there was inadequate planning of the operation to enter the hall and locate the wanted individual. This lack of planning not only risked the lives of those members of the patrol who went inside but also those civilians who were already inside.

[89] Captain Barton spoke to a local priest, Fr Augustine Hourigan, who made him aware that the presence of the patrol would not be welcome. At around that time the band which had been playing earlier in the evening was on a break. Sometime after the patrol entered some of those people present began to shout verbal insults and shout "out, out, out". Some people began to bang on tables or wooden beer crates while others stamped their feet. This was done to demonstrate to the soldiers that their presence was not welcome in the hall. I am entirely satisfied that the atmosphere was tense and extremely hostile toward the soldiers.

[90] At this point Captain Barton could, and probably should, have reassessed the situation and the risk posed to his patrol and those civilians present. Such reassessment might have led him to conclude that the patrol should exit and seek to apprehend the wanted man using alternative means. The situation in the hall can best be described as a powder keg. The military presence ignited the fuse with tragic consequences.

[91] The band was told to begin playing again and they did so. I am satisfied that this was an attempt to diffuse the situation. Many of the people present, including a number of younger girls, began to dance in an area in the centre of the hall. The hall was very busy and space was limited. As well as the dancers there were a number of tables and chairs scattered around the hall. People were sitting on chairs and beer crates. I am satisfied that Captain Barton, Soldier B and possibly one other soldier, a Lance Corporal, began to make their way through the dancers toward the back of hall. All three soldiers were carrying military issue SLR's close to their body.

[92] I am satisfied that as the soldiers began to move around the hall they were attacked by some of those people present at the dance. Evidence from the soldiers and from a number of civilians supports this view. Some witnesses said that bottles were only thrown after the soldiers opened fire. I am satisfied that bottles were smashed and thrown toward the soldiers, as well as other objects, both before and after the initial shots were fired. I am satisfied that Captain Barton was knocked to the ground as he described in his statement. I am also satisfied that Soldier B was attacked with a bottle and a chair as he described. I am completely satisfied that Soldier B received a serious head injury as well as other injuries as a result of being attacked. Although the military radio log is silent about any injuries a military ambulance was tasked and I accept the evidence of Soldier K that Soldier B was treated for injuries.

[93] I cannot say with any degree of certainty which soldier fired the first shot, other than to say, that I am satisfied it was not Soldier B or Captain Barton. The first shot was fired into the ceiling and was fired as a response to the attack on Captain Barton and Soldier B. It was fired to try and disperse the crowd and I consider that the soldier who discharged this shot used reasonable and necessary force given the circumstances. The next two shots were fired by Soldier B and they were also fired into the ceiling. As I said previously evidence from civilians given in 1971/72 supports this view.

[94] The evidence is less clear as to what happened next. It seems from the civilian evidence that once the initial shots were fired most of the people in the hall were on the ground taking cover. I am satisfied that Mr Parker was standing upright when he was shot. I cannot say why and it would be wrong to speculate other than to say that he was probably facing toward the curtain at the top of the hall and away from the altercations which were taking place at the other end of the hall between Soldier B,

Captain Barton and some of the crowd. I am satisfied that Mr Parker was shot after the initial warning shots into the ceiling were fired. The bullet which struck him was not aimed at the ceiling but was fired horizontally at a height of 26" from the ground. At inquest it was shown to my satisfaction that a soldier kneeling and aiming with a weapon in this position is most likely to have fired the shot which struck Mr Parker. I am satisfied that this soldier was positioned close to the entrance door and was firing his weapon toward the opposite wall i.e. into the hall.

[95] A number of witnesses described a small blonde/fair haired soldier shooting indiscriminately from a kneeling position:

- Mrs Watt said she could see a soldier at the door, "he was down on one knee and had his gun about waist height. He fired a number of shots from left to right."
- Ms Donnelly said that she saw a fair-haired soldier at the door kneeling down on one knee and he began to fire his gun. She said he had his gun straight out in front of him and then everyone began screaming and she dived to the floor for cover
- Mr McAllister described the scene as panic with the crowd trying to take cover while a second soldier behind the first began shooting. This soldier was crouched down and kneeling. He swivelled his gun as he was shooting.

- Mr Guiler said that one of the soldiers whom he described as having blonde hair, dropped to his knees and fired at least three shots with a rifle toward the side of the hall immediately opposite the doorway.

[96] Accordingly, I am satisfied that a soldier who had blonde or fair hair fired the shot which struck and killed Mr Parker. I am further satisfied that this shot was fired deliberately but that Mr Parker was not deliberately targeted, in other words, this soldier was acting recklessly when he fired shots at such a low level in a hall full of civilians. I have not been presented with any evidence which suggests that Mr Parker posed any threat, either direct or indirect, to the military patrol. I am satisfied, therefore, that the force used against Joseph Parker was not justified since he posed no threat to members of the patrol.

[97] Another issue discussed at inquest was whether members of the patrol opened fire on the hall from outside. I am not satisfied, for reasons outlined above, that shots were fired in the manner described by Mr Demet. The soldiers who were inside the hall fired a total of 18 rounds, 27 rounds were replaced the next day to all members of the 16 man patrol. Some of those nine additional shots may have been fired into the air outside as described by some soldiers but I am satisfied based upon the photographs showing bullet holes clearly coming from the outside to the inside that members of the military patrol fired into the hall from outside. I am able to say no more than that other than to say that this shooting was not justified since those soldiers who fired inside from outside would not have known what they were shooting at inside the hall. None of those shots, obviously, struck Mr Parker.

[98] I have concluded this inquest and delivered my findings. These findings are not an attempt to re-write history but to clarify some aspects of it.

**J McCrisken**

**Coroner for Northern Ireland**

**24 November 2017**