

CONSTABLE A NEILL: (RECALLED): CROSS-EXAMINED BY MR ORR:

MR ORR: Constable Neill, at the outset can I ask you were you interviewed on the 8th September 1997 by Detective Inspector Irwin and Detective Chief Inspector McBurney?

A. Correct, My Lord.

Q. Was that an interview which you attended voluntarily?

A. Correct, My Lord.

Q. Was that an interview at which you were cautioned?

A. Correct, My Lord.

Q. Was it made clear to you at the outset of that interview that you were being interviewed from the point of view of considering a charge of criminal neglect of duty?

A. Correct, My Lord.

Q. Can I ask since the 8th September 1997 have you been told whether or not you are to be charged? A. No, I have not been told as yet, my Lord.

Q. What is your understanding of the possibility of your being charged? A. Awaiting a decision till after this court.

Q. In other words, as you sit there you may still be charged with criminal neglect of duty? A. Correct.

Q. A decision on that will not be made till after you have given evidence in this case and this case is concluded?

A. Correct, My Lord.

Q. Is that the situation? A. Correct.

Q. Now, could I ask, you have over the period of time from the night of this incident or the early morning of this incident up till yesterday you have given a number of accounts, as it were,

B.C.2

of what happened as best you can recollect what happened?

A. Correct.

Q. And am I right in saying that you made an entry in your police notebook about the events? A. Correct, My Lord.

Q. Am I right in saying that you initially made a statement in this case on the following day, that is, the Sunday?

A. That was the same day, the 27th April, My Lord.

Q. Later on the same day, on the Sunday?

A. Correct, My Lord.

Q. Am I right in saying that you then made a further statement on 13th May 1997? A. It was

Q. Concerning the confrontation? A. That was the 13th May? Yes, that is correct.

Q. Am I right in saying that you were interviewed under caution for two interviews on 8th September 1997? A. ~~Yes~~.

Q. Am I also right in saying that you were then invited on 21st November 1997 to make a further statement?

A. That is correct.

Q. And in addition to that did you also have a session with Detective Sergeant Lawthor shortly after the incident itself?

A. Correct.

Q. Was that ... we are told that that incident was at 8 pm on the following Saturday. Saturday the 13th May?

A. Correct.

Q. Is that the situation? A. Correct.

Q. So, you have been asked on quite a number of occasions to account and to explain and relate what actually happened on

B.C.3

this particular Saturday night, Sunday morning?

A. Correct, My Lord.

Q. In relation to each time that you have related it have things come back to your mind that were not in your mind when you were talking about it earlier stages? A. S o m e

things. Not an awful lot, My Lord.

Q. Am I right in saying that after all of those matters you then made a deposition in this case which is included in the papers? A. Correct, My Lord.

Q. Was that a deposition when you gave evidence and were cross-examined which is in the papers? A. Correct.

Q. Then you gave your evidence yesterday?

A. Yes, My Lord.

Q. Could I ask you just dealing with the person with the goatee beard that you mentioned, did you before you gave your dpeosition at Craigavon Magistrates' Court ever before that make any reference to his height? A. I couldn't honestly say.

Q. Did you make a reference to his height in your notebook? A. I couldn't honestly say, My Lord.

Q. During the course of the various times that you were relating what happened did the age of the person with the goatee beard change at all? A. No, My Lord.

Q. Whenever you first told about it did you not describe him as late twenties? A. Possibly.

Q. Did you then at a later stage change that to mid twenties? A. I couldn't honestly say, My Lord.

Q. And then yesterday to a man in his twenties?

B.C.4

A. That is quite possible, My Lord.

Q. Just so that I get the sequence of things, after you finished your duty on this Sunday morning after this attack on Mr Hamill, what time did you finish your duty at?

A. I finished duty at a quarter to four in the morning, My Lord.

Q. When you left the station at a quarter to four had you written up in your notebook what had happened during the course of that night? A. Not at that time, My Lord.

Q. Am I right in saying that having finished at a quarter to four that you were asked to come in a short time later?

A. That is correct.

Q. Or later in the day. Did you get a 'phone call less than two hours after you had finished duty? A. Correct.

Q. Was that at 5.40 in the morning? A. That would be correct.

Q. Just so that I am clear, was the purport of the 'phone call that you should speak to a Detective Constable Keyes in the police station? A. Correct.

Q. Did you go at 5.40 to the police station, or shortly after that? A. Correct.

Q. So, after you had dressed and got yourself ready you would have gone into the police station? A. Correct.

Q. Did you remain in the police station till midday, after midday, till 12.30? A. Possibly. Yes.

Q. Just so I am clear about it, if you got the call at 5.40 what time would you estimate that you had got back to Portadown police station? A. I couldn't say what

B.C.5

time I got back into the station at. I believe I got a further 'phone call shortly after that to see if I was coming in, and I got a shower and that before I went in. It was possibly about seven o'clock before I got back to the station.

Q. You think that you would have been there about seven?

A. Possibly.

Q. And I am not tying you down, but from about seven till 12.30?

Q. Five and a half hours? A. That would be correct.

Q. Am I right in saying during the five and a half hours you made your first statement about this incident?

A. That is correct.

Q. Am I right in saying that during those five and a half hours you wrote your notebook entry about what happened?

A. correct.

Q. Can you recollect which of the two you did first?

A. I couldn't honestly say. It was possibly my statement first of all.

Q. Could you have made the statement first because that was the reason you were being called back into the police station?

A. Yes.

Q. Would you have then after making your statement would you have written down in your notebook before you left the station or did you write your notebook at a later time, again on Sunday?

A. I believe it was before I left the station.

B.C.6

Q. So, you wrote your notebook in the station as well?

A. Yes.

Q. At that stage am I right in saying that you knew that there was at least one person who had been badly injured?

A. Yes, that is correct.

Q. Am I right in saying that you also knew at that stage that there was some suggestion that the police had sat and watched this happen and had done nothing?

A. Yes, My Lord, that is correct.

Q. You were aware that was the problem, that was why you were being brought in a matter of two hours after you had gone off duty?

A. No, I don't think that was the reason, My Lord.

TO S.B. 12.30 p.m.

1 Wednesday, 24th February 1999

2 R V Paul Hobson

3
4 SB from BC 12.30

5 CONSTABLE ALAN NEILL

6 (Cont'd) Cross-examination by MR ORR:

7
8 Q. But in any event you gave your statement and was that
9 statement made to Detective Constable Keys whom you had been
10 asked to come in to speak to it about, or was it to
11 Detective Sergeant Lawther?

12 A. I was called in to see Detective Constable Keys, but
13 there was several other detectives there at the same time.
14 It was handed to Detective Constable Keys.

15 Q. Now, just so that I am clear about it, you were aware of a
16 person who had been lying injured on the roadway.

17 A. That's correct.

18 Q. You were aware that there was a second person lying injured
19 on the roadway.

20 A. That is correct, my Lord.

21 Q. And did you know which of them was Mr Hamill and which of
22 them was Mr D

23 A. Not until I went into the office, the CID office,
24 my Lord.

25 Q. And what was it that you learnt in the CID office which
26 indicated which was which?

27 A. I can't honestly remember.

28 Q. You see, what we're talking about here is two men who are
29 both lying unconscious.

30 A. That's correct.

1 Q. Two men who are lying relatively close, one to the other.
2 A. One was outside Number 7 bakery and the other was
3 outside Eastwoods, there was some distance between them.
4 Q. Just so that I'm clear about it, the one who was outside the
5 Number 7 bakery, did he remain there until the ambulance
6 arrived?
7 A. I couldn't honestly say. As far as I'm aware he was, but
8 I couldn't honestly say.
9 Q. Did you hear the evidence of the ambulance driver?
10 A. Yes.
11 Q. In court yesterday.
12 A. Yes, I did.
13 Q. Did you hear him say that both men were lying on the church
14 side of the Thomas Street junction?
15 A. I did, my Lord.
16 Q. So you're saying that that's not right?
17 A. Not as far as I can remember.
18 Q. In fact, the ambulance driver said that in fact he drove up
19 to outside the bakery and if in fact one of them was lying
20 there presumably the ambulance would have gone over him.
21 A. The best as I can remember Mr D who was lying
22 outside Number 7 was fairly close to the footpath.
23 Q. Well now just so that I'm clear about that, you weren't
24 certain which injured person was which at the time of the
25 incident?
26 A. Not at the time of the incident, no.
27 Q. And you are saying that when you went into the station a few
28 hours later you were made aware but you don't know how you
29 were made aware.
30 A. No, I couldn't say.

1 Q. Is that fair?

2 A. Yes, that's fair to say.

3 Q. Of what you have said. And in relation to what happened do
4 you remember either of the two men who were lying
5 unconscious on the road, whatever their position, did you
6 see either of those two men do anything before they were in
7 the prone position?

8 A. No.

9 Q. You didn't?

10 A. No.

11 Q. And so that I'm clear about it, Constable, from the time
12 that you first saw the two men lying on the roadway, did
13 either of the two men move from their lying position until
14 they were taken away by ambulance?

15 A. As far as I can remember they were put into the recovery
16 position, but that's the only movement.

17 Q. Apart from being moved from back to side.

18 A. Yeah.

19 Q. Did they remain lying on the roadway in whatever position
20 until the ambulance arrived?

21 A. As far as I can remember, yes.

22 Q. And so that I'm clear about it, did you notice or observe or
23 see Mr Hamill at any stage before you saw him lying
24 unconscious on the roadway?

25 A. No, I couldn't say that I did.

26 Q. And you're clear about that?

27 LORD JUSTICE McCOLLUM: What is your answer?

28 THE WITNESS: I couldn't say that I did, my Lord.

29 MR ORR: I couldn't say that I did.

30 (To the witness): Now, do you remember in your evidence

1 yesterday, Constable Neill, that you started to mention
2 about a man coming over and having a bit of a bottle in his
3 hand?

4 A. Yes, it was either a bottle or part of a bottle.

5 Q. Well, a piece of glass.

6 A. I was some distance from it.

7 Q. And whenever you said about that you then went on to say
8 there were two people and you will remember his Lordship
9 actually said, hold on, you've only told us about one
10 person.

11 A. Yes.

12 Q. So that I'm clear about it, were you saying that one of the
13 number of incidents that happened on that morning was two
14 people, one running and the other running both towards each
15 other?

16 A. That is correct, my Lord.

17 Q. And one of them armed with a piece of glass?

18 A. Yes, it was a piece of glass or a bottle.

19 Q. Now, I appreciate it's difficult to get them in sequence,
20 but did you see those two people running towards each other
21 before or after you saw the two men prone on the ground?

22 A. It was whenever I was over at Mr Hamill that I
23 remembered seeing, so it was before I saw Mr Hamill on the
24 ground.

25 Q. So the position, so that I'm clear about it, are you saying
26 that you saw -- you didn't see Mr Hamill at all before you
27 saw him lying on the ground?

28 A. I believed that that person that was lying on the ground
29 had been the person that was running towards the fella with
30 the bottle.

1 Q. Exactly, this is what I'm coming to. Now, that's the first
2 time we've heard that in your evidence.

3 A. H'mm h'mm.

4 Q. And just so I'm clear about it, what is it you're saying was
5 the position between those two men running towards each
6 other, one of them armed with a piece of glass?

7 A. Well, it appeared that one was Catholic and one was
8 Protestant and they were going to fight each other.

9 Q. Yes, and had you any views or beliefs as to who the person
10 without the glass was?

11 A. Only after I found Mr Hamill on the ground, I believed
12 that that was the person running up towards the church.

13 Q. So do I understand you to be saying, Constable, that before
14 Mr Hamill was knocked to the ground that Mr Hamill was
15 running towards someone from the opposite group, from the
16 opposite faction, the person from the opposite faction being
17 armed with a piece of glass?

18 A. Well, I couldn't say that it was Mr Hamill, but I
19 believed it was.

20 Q. You believed it was.

21 A. I believed it was.

22 LORD JUSTICE McCOLLUM: What gave you that belief?

23 THE WITNESS: I had seen the two people approaching each other,
24 one with the glass coming down from the church and the other
25 person coming up from the Thomas Street junction. They
26 appeared to be going to oppose each other, get into a fight.
27 I can't say that I saw that actual fight taking place, but
28 it was after that that I saw Mr Hamill on the ground and
29 there was the alcohol glass in that area, just beside him.
30 So that's what brought it into mind.

1 MR ORR: But I mean the fact that there was glass where he was
2 lying wouldn't necessarily mean that that was the same
3 person.

4 A. No, I'm not saying that it was the same person. I had
5 seen the person coming down the street with the bottle in
6 the hand, the other person going up. It was after that then
7 that I saw Mr Hamill. When I went over to see Mr Hamill
8 there was liquid round him, I initially thought it was
9 blood, I checked him and then realised that it was alcohol.
10 And then I remembered seeing the two people coming down, the
11 two people opposing each other at that point.

12 Q. So then I can try and get it into some sort of sequence, was
13 Mr Hamill the person you believe was Mr Hamill, running with
14 someone from the other faction, was that before or after you
15 had been the good Samaritan and had dragged this man out of
16 a fight, three to one fight, and taken him over into
17 Woodhouse Street?

18 A. That would have been after that.

19 Q. After that.

20 A. Yes.

21 Q. Now, as I understood your evidence, after you had taken that
22 man into Woodhouse Street he was attacked by someone?

23 LORD JUSTICE McCOLLUM: What was after what? Which came first,
24 dragging the man across the road or this incident with the
25 two men running at each other?

26 THE WITNESS: My Lord, I took the man across the road into
27 Woodhouse Street.

28 LORD JUSTICE McCOLLUM: First?

29 THE WITNESS: It came first, my Lord.

30 MR ORR: When you gave your evidence yesterday, Constable, am I

1 not right in saying that after you had taken that man to
2 safety into Woodhouse Street, that he was punched in the
3 face by a male who ran up behind you?

4 A. That's correct, my Lord.

5 Q. And did you then let go of the man you had saved and you
6 then grabbed hold of his attacker?

7 A. That is correct, my Lord.

8 Q. And you have been able to tell us that the attacker was a
9 male in his late teens or early twenties, and that whenever
10 you grabbed him he said he was sorry, or kept saying he was
11 sorry, and you also told us that he was intoxicated.

12 A. That is correct, my Lord.

13 Q. Where did you take him?

14 A. I took him back to the side of the Land Rover.

15 Q. And why did you take him to the side of the Land Rover?

16 A. I took him up to the Land Rover to get him out of
17 Woodhouse Street to stop people going down into Woodhouse
18 Street, for if they seen another fight down there they would
19 have come down into Woodhouse Street.

20 LORD JUSTICE McCOLLUM: Sorry, you're going very fast, it was to
21 get him out of Woodhouse Street you say and you'd seen what?

22 THE WITNESS: Because there had been, if other people had seen
23 the fight starting down there.

24 LORD JUSTICE McCOLLUM: If other people, is that what you are
25 saying?

26 THE WITNESS: Yes.

27 LORD JUSTICE McCOLLUM: If other people had seen that fight,
28 yes?

29 THE WITNESS: They would have come down into Woodhouse Street as
30 well.

1 MR ORR: In terms of me getting the sequence of things, am I
2 right in saying that you ran over, after you'd got out of
3 the Land Rover, you ran over to grab this man to save him?
4 A. That's right.
5 Q. That you ran him fairly rapidly into the mouth of Woodhouse
6 Street, you seen him assaulted when he's beside you and then
7 you then grab the assailant?
8 A. That's correct. I had taken this same person out of a
9 couple of fights after that as well, the same person kept
10 coming back into the street.
11 Q. Yes, but I take it that you took him to the Land Rover
12 because you were going to arrest him for assault?
13 A. I was in no position to arrest anybody for assault at
14 that stage.
15 Q. You weren't, I see. So you weren't going to arrest him for
16 assault. And then what you told his Lordship yesterday was
17 that you took him back to the Land Rover. Constable Cornett
18 was on the radio, there were still fights going on, there
19 were still people coming up the town, you were looking for
20 Atkinson and P40 you saw Atkinson at the central
21 reservation and you went to assist him, that you saw nobody
22 on the ground when you went to rescue the first man.
23 A. The first man, no. There was nobody on the ground.
24 Q. But that you saw a body on the ground after you brought the
25 person to the Land Rover.
26 A. It was sometime after that, I couldn't say when. I can't
27 put things into chronological order and I cannot remember
28 the full facts.
29 Q. Well, are you not suggesting that whenever you took this man
30 back as far as the Land Rover you then looked across the

1 street and you saw someone lying on the ground?

2 A. That's possibly the way it reads in the statement, but
3 as best as I can remember when I was writing the statement.

4 Q. And if you did see someone lying on the ground at that time,
5 and that was Mr Hamill, then you couldn't have seen
6 Mr Hamill running towards someone else because you were busy
7 taking the first man to safety, is that not right?

8 A. As I said I can't put it into chronological order,
9 so ...

10 Q. I appreciate, I'm just simply trying to establish the reason
11 for your belief that it was Robert Hamill.

12 A. I had seen him running to the two persons running at
13 each other and whenever I did see Mr Hamill lying on the
14 ground that came to mind.

15 Q. So was it because of the way he was dressed that you
16 immediately thought, now, that's the man that was running
17 towards someone earlier or how did you come to the
18 conclusion it was the same man?

19 A. Because one person had been running at the other one
20 with a bottle in his hand and Mr Hamill was lying with glass
21 round him and alcohol round him.

22 Q. So does that suggest that the person who was running towards
23 Mr Hamill was the person who downed him, is that your
24 belief?

25 A. That is my belief.

26 Q. That's your belief. And was there anyone other than the
27 person with the bottle who was running towards Mr Hamill?

28 A. No, there wasn't, my Lord.

29 Q. And he's running towards Mr Hamill, he downs him and did you
30 see that person who had the bottle or the piece of glass,

1 whichever it was, did you see him again after that?

2 A. I wasn't close enough at that stage to be able to make

3 an identification of the two people that were running at

4 each other.

5 Q. What distance would you have been from him?

6 A. I couldn't honestly say. I believed I was in the mouth

7 of Woodhouse Street at that time.

8 LORD JUSTICE McCOLLUM: Let's try and get distance first, if

9 that's what you said, so tell me how far that was.

10 THE WITNESS: It would be about 20, 30 yards, my Lord.

11 MR ORR: Were you in a position to identify the person whom you

12 believe attacked at that time Mr Hamill?

13 A. No.

14 Q. And why was that?

15 A. Because I couldn't see, I couldn't see who it was.

16 Q. Well now, just so that I'm clear about it, was there

17 anything or anyone between you and these two men running at

18 each other that precluded you from seeing?

19 A. There was approximately up to 60 people on the street at

20 that stage.

21 Q. And do I take it that the 60 people weren't all between you

22 and these two men?

23 A. No, they weren't all between us, no.

24 Q. I mean, did you at one stage indicate that you had, you got

25 a tunnel vision of certain things?

26 A. That was later on, yes.

27 Q. Well, did you not have a tunnel vision of these two men

28 running at each other as if to attack each other?

29 A. No.

30 Q. And can you assist in any shape or form as to just estimate

1 the age of the attacker, assuming it was Mr Hamill was
2 attacked at that time, but if we assume that have you any
3 idea of the age of the attacker?
4 A. I have no recollection.
5 Q. The height of the attacker?
6 A. No, my Lord.
7 Q. The clothing of the attacker?
8 A. No, my Lord.
9 Q. Any facial features of the attacker?
10 A. No, my Lord.
11 Q. Absolutely nothing. The only thing you can say was either a
12 glass or a piece of glass or a bottle in his hand?
13 A. That's correct, my Lord.
14 Q. Is that the situation. Now, do I understand what you were
15 doing, what were you doing at the time when you saw these
16 two men running towards each other? Were you doing anything
17 in particular?
18 A. I cannot remember.
19 Q. Had you managed to get the man into Woodhouse Street, out of
20 the way, were you still with the man who was punching him,
21 or were you concentrating on a number of things at one time?
22 A. Well, there was any number of things that were going on
23 at the same time. I couldn't say exactly what I was doing at
24 that particular time.
25 Q. Is it possible, Constable, that Robert Hamill was lying
26 unconscious on the ground before you were pulled out of the
27 Land Rover?
28 A. No.
29 Q. You're clear about that?
30 A. I'm clear of that, yes.

1 Q. And just so that I understand what you're saying, the only
2 thing that happened before you were pulled out of the Land
3 Rover was Stacey Bridget and another youth squaring up to
4 the man who had spoken to the police in the mouth of
5 Woodhouse Street.

6 A. That's correct, my Lord.

7 Q. And did you see a blow struck by either?

8 A. No, my Lord.

9 Q. Did you see any attempt at kicking or punching or anything
10 of that nature?

11 A. No, my Lord.

12 Q. Did the harsh words of Woman Constable Cornett: Get away on
13 home, or something to that effect, did that stop that
14 confrontation?

15 A. It did, my Lord.

16 Q. And immediately shortly, or very shortly after that you're
17 dragged out of a Land Rover, or at least the doors open and
18 you're pulled, and you get out, is that right?

19 A. Another couple of minutes after that.

20 Q. And so that I'm clear, was the man who pulled you out the
21 man who had walked in front of the Land Rover a short time
22 earlier who had been confronted by the two youths?

23 A. Not that I am aware, no.

24 Q. Not that you are aware?

25 A. No.

26 Q. So it wasn't the same person?

27 A. I don't believe so.

28 Q. What did the person who was trying to, who opened the police
29 door and was trying to pull you out, what was he complaining
30 to you about?

1 A. He was saying you sat there and watched that happening.

2 Q. You sat there and watched that happen.

3 A. That's correct.

4 Q. And did anyone else say that to you?

5 A. There was a female somewhere behind him saying similar.

6 Q. Saying the same thing.

7 A. Yes.

8 Q. And I presume you must have been absolutely mystified as to

9 what they were talking about?

10 A. That's correct.

11 Q. Did you think that really what they were saying was you sat

12 there and watched two youths confront a man in the mouth of

13 Woodhouse Street and didn't get out of the vehicle?

14 A. No, I didn't know what they were talking about.

15 Q. Well, if you didn't know what they were talking about, and

16 if it's being alleged by members of the public that you sat

17 there and watched something happen, what would be the first

18 thing you would want to know?

19 A. Well, I was asking the man what's happened whenever I

20 got out of the Land Rover. We hadn't heard anything.

21 Q. I appreciate that.

22 A. And I couldn't see behind me at that stage. Whenever I

23 got out the people were standing, everybody was, I couldn't

24 see anybody on the ground at that stage. Everybody seemed,

25 appeared to be standing and the crowd were facing each other

26 and shouting at each other.

27 Q. Well, you say that you asked the man what had happened, did

28 he answer you?

29 A. I didn't get any response to let me know exactly what he

30 was talking about.

1 Q. This clearly wasn't the actions of someone who was simply
2 anti police. This was someone who was complaining about your
3 conduct and that of the other police officers.
4 A. That's correct.
5 Q. And a woman doing the same and your evidence to this court
6 is that there was no reason for that?
7 A. I didn't see anything happening.
8 Q. Well, do I take it from what you're telling us that there's
9 only two possibilities that they could have been referring
10 to. They could have either been referring to the
11 confrontation, two to one, in the mouth of Woodhouse Street,
12 or they could have been referring to the fact that there
13 were two groups, presumably cat calling I think was the
14 phrase was used by your colleague Constable Atkinson, two
15 groups cat calling at each other in Main Street.
16 A. Well, I wouldn't have been able to see Stacey Bridget
17 the other youth approaching the other man because the Land
18 Rover was in front of them, would have been in front of the
19 junction at that stage.
20 Q. So in other words he can't have been referring to the first
21 incident?
22 A. No.
23 Q. And is it your understanding, Constable, that what really
24 this man must have been complaining about was two groups cat
25 calling at each other in the Main Street of Portadown?
26 A. That is correct.
27 Q. And is that what your understanding is of what he was, he
28 was actually pulling open a door of the police vehicle and
29 shouting at you?
30 A. That's correct, my Lord.

1 Q. And a woman doing the same?
2 A. (Nods head).
3 Q. Because if you're right absolutely nothing had happened
4 before you got out of the Land Rover.
5 A. I hadn't seen anything happening.
6 Q. Well, okay then. You asked the man what it was and he didn't
7 answer you.
8 A. No, he just kept shouting at me.
9 Q. He kept shouting at you.
10 A. Yes.
11 Q. You have told us that you went from the driver's door back
12 and you met Constable Atkinson near to the rear of the
13 vehicle.
14 A. That is correct.
15 Q. Whenever you're near to the rear of your vehicle have you
16 got a straight on view of the mouth of Thomas Street and its
17 junction with Main Street?
18 A. Yes.
19 Q. Could you see anyone at that stage lying on the ground?
20 A. No.
21 Q. So you still couldn't find, or couldn't understand what on
22 earth this man and this woman were complaining about.
23 A. That is correct, my Lord.
24 Q. Because on your evidence nothing had happened.
25 A. That's correct, my Lord.
26 Q. You see, I want to suggest to you that the attack on Robert
27 Hamill, and that the attack on the second man [REDACTED]
28 [REDACTED] that had happened and they were lying on the ground
29 before you got out of the police vehicle.
30 A. I wouldn't agree with that, my Lord.

- 1 Q. And that your reason for getting out was not because of
2 anything that you saw, but because the door was opened and
3 someone pulled at you.
- 4 A. I got out because somebody was pulling at me, but they
5 were not on the ground whenever we got out of the Land
6 Rover.
- 7 Q. Well, is that something that I take it you have done many
8 public order duties in police Land Rovers?
- 9 A. That's correct, my Lord.
- 10 Q. How long have you been a police officer?
- 11 A. Sixteen years.
- 12 Q. And have you ever had other occasions when angry people have
13 pulled open the doors of the vehicle to pull you out,
14 shouting abuse at you?
- 15 A. No, my Lord.
- 16 Q. So you must have been very anxious to know why, why am I
17 being blamed or why are we being blamed on this occasion?
- 18 A. That's correct, my Lord.
- 19 Q. And that would make you want to look around to see what it
20 was that had happened.
- 21 A. That's correct, my Lord.
- 22 Q. And your evidence is nothing had happened?
- 23 A. That's correct.
- 24 Q. All that had happened was that there were two rival groups
25 cat calling one at the other?
- 26 A. That's correct.
- 27 Q. When you saw that was there any fighting taking place when
28 you got to the rear of your Land Rover and had a clear view
29 straight ahead of you?
- 30 A. No, there was no fighting at that stage.

1 Q. So this isn't a situation where because of a crowd fighting
2 each other in front of you you can't see what's behind, you
3 can't see if there's anyone lying. There was no fighting at
4 that stage?

5 A. No, there was no fighting at that stage.

6 Q. And were the two groups, I take it they weren't right up
7 close face to face, they'd have been back from each other
8 shouting abuse, one at the other?

9 A. They were fairly close together.

10 Q. Well, what sort of distance?

11 A. I couldn't say what distance. I mean, they were close
12 together. There wasn't like one bunch, I mean they were
13 split up, they weren't stuck together that I can remember.

14 Q. So that I'm clear about it, where exactly, take the
15 Nationalist crowd, you think there were how many of them?

16 A. Approximately eight to ten.

17 Q. Where were they standing cat calling?

18 A. They were at the junction of Thomas Street.

19 Q. Does that mean that they were still in the mouth of Thomas
20 Street?

21 A. No, they were across the road from the junction of
22 Thomas Street, across the road from the Number 7 bakery.

23 LORD JUSTICE McCOLLUM: Across the road from what?

24 THE WITNESS: The Number 7 bakery, my Lord.

25 MR ORR: And taking then the larger group, when you say across
26 from the bakery, across the mouth of Thomas Street or across
27 Main Street?

28 A. No, across High Street.

29 Q. Across the Main Street?

30 A. Yes.

- 1 Q. So in other words as they would have been standing would
2 they have been looking, the eight to ten, looking in the
3 general direction of the church?
- 4 A. Yes, that is correct, my Lord.
- 5 Q. And in terms of the Loyalist crowd, which you say was
6 bigger, how many did you estimate originally would have been
7 in that?
- 8 A. There would have been between 30 and 40.
- 9 Q. And insofar as that group were concerned, where was the
10 group of 30 to 40?
- 11 A. They would have been at the mouth of Thomas Street
12 looking down into High Street.
- 13 Q. At the mouth of Thomas Street ...?
- 14 A. Yes.
- 15 Q. And down?
- 16 A. At the mouth of Thomas Street looking down the town,
17 down into High Street.
- 18 Q. Would they have been in other words outside --
- 19 A. They would have been outside Eastwoods and at the
20 junction there.
- 21 Q. So you're looking at this junction at an angle, is that
22 right, and you've got two rival groups, a small group of
23 eight to ten looking up towards the church and a group of
24 30 to 40 looking down towards the bottom of the town to
25 Bridge Street.
- 26 A. That would be correct.
- 27 Q. Is that the situation. So were you in a position to see
28 whether there was anyone on the roadway or not?
- 29 A. I could not see anybody on the roadway at that time.
- 30 Q. Is that because there was no one there or is that because

1 the crowd prevented you?

2 A. I believe that there was nobody there at that time.

3 Q. You believe there was no one on the ground at that time?

4 A. No.

5 Q. And there still had been no fighting going on between these

6 two groups?

7 A. Not that I had seen.

8 Q. Can I just ask you, what was the first thing that happened,

9 Constable, that turned the cat calling into physical

10 assaults or physical attacks?

11 A. I couldn't honestly say, it just started, just a

12 fraction of a second it just, the fights broke out right

13 across the street.

14 Q. And was there one fight in particular that you concentrated

15 on?

16 LORD JUSTICE McCOLLUM: Could I go back a bit, right across what

17 street did these fights start?

18 THE WITNESS: Right across, well, it was at the junction of High

19 Street and market street, it would be Main Street, my Lord.

20 LORD JUSTICE McCOLLUM: Well, what did you mean right across the

21 street? What was your meaning?

22 THE WITNESS: Well, there's two lanes on either side. They were

23 towards the church, that side of the church, it was across

24 that half of the street.

25 LORD JUSTICE McCOLLUM: What street do you mean when you say

26 right across the street? What street are you talking about?

27 THE WITNESS: It's at the junction, the junction of High Street

28 and market street.

29 LORD JUSTICE McCOLLUM: Well, did you mean to say they started

30 at the junction, was that what you meant to say?

1 THE WITNESS: Yes, from the junction of Thomas Street across
2 into the middle of the road.

3 MR ORR: And was it at that stage that you decided to concentrate
4 on one of these fights?

5 A. This particular fight outside Eastwoods caught my
6 attention.

7 Q. And it would have been some distance from you, you were at
8 the back of the Land Rover at that stage, were you?

9 A. Yes, that's correct.

10 Q. So did you then run from the back of the Land Rover over to
11 this fight?

12 A. I did.

13 Q. And was there anyone to block your passage as you ran over
14 to Eastwoods?

15 A. There was, I think there was a fight onto my left-hand
16 side towards the Number 7 bakery.

17 LORD JUSTICE McCOLLUM: I'm sorry to interrupt, Mr Orr, but I'm
18 just trying to get a picture here.

19 (To the witness): About how many males and how many
20 females would have been in the Nationalist group?

21 THE WITNESS: I couldn't say, my Lord.

22 LORD JUSTICE McCOLLUM: Well, you know, try your best.

23 THE WITNESS: I couldn't say, my Lord, I can't say.

24 LORD JUSTICE McCOLLUM: Were they all male?

25 THE WITNESS: Well, I know there was, during the whole thing I
26 believe I saw two females.

27 LORD JUSTICE McCOLLUM: You only saw two females in all of the
28 groups, is that right?

29 THE WITNESS: No, two females on the Nationalist side throughout
30 the whole thing as far as I can remember.

1 LORD JUSTICE McCOLLUM: As far as you can remember. What about
2 the other side how many?
3 THE WITNESS: I couldn't say at all.
4 LORD JUSTICE McCOLLUM: You can give no idea of the break up,
5 whether it was predominantly male, whether it was half and
6 half?
7 THE WITNESS: I was busy trying to break up fights that were
8 happening.
9 LORD JUSTICE McCOLLUM: Don't explain to me, just tell me
10 whether you can say it or not.
11 THE WITNESS: I can't.
12 LORD JUSTICE McCOLLUM: You can't say by sex how this group was
13 made up?
14 THE WITNESS: No, I couldn't say.
15 LORD JUSTICE McCOLLUM: And how many fights were there at the
16 junction of Thomas Street and coming across market street?
17 THE WITNESS: I believe there was four or five.
18 LORD JUSTICE McCOLLUM: So eight or ten Nationalists were
19 causing four or five different fights before your eyes?
20 THE WITNESS: That's correct, my Lord.
21 LORD JUSTICE McCOLLUM: Yes.
22 MR ORR: I'm just wondering if the witness could have a look at
23 exhibit 12, please, the night time photographs.
24 (To the witness): Could I ask you to look at photograph
25 number 16.
26 A. Sixteen?
27 LORD JUSTICE McCOLLUM: We haven't got 16, Mr Orr, not in my
28 album.
29 MR ORR: The night time views?
30 LORD JUSTICE McCOLLUM: Sorry, I didn't realise.

1 MR ORR: I'm sorry, exhibit 12.

2 LORD JUSTICE McCOLLUM: My fault.

3 MR ORR: Exhibit 12, the night time photographs.

4 (To the witness): Now, do you see there the junction

5 that we're talking about, I'll call it Main Street, I know

6 it has two names, Main Street and Thomas Street.

7 A. Yes, my Lord.

8 Q. Or sorry Market Street.

9 A. That's correct, my Lord.

10 Q. Now, insofar as that junction is concerned, these

11 photographs were taken at a reconstruction we are told. And

12 I take it that that Land Rover that one can see the end of,

13 that that was placed there as a result of your belief of

14 where you were parked.

15 A. That's correct, my Lord.

16 Q. And I take it that that's the rear driver's side that one

17 can see.

18 A. That's correct, my Lord.

19 Q. So if one takes the position of the photographer, you're

20 looking directly across towards Eastwoods and off to your

21 left would be the Number 7 home bakery.

22 A. That's correct, my Lord.

23 Q. And is it your evidence that the group of eight to ten

24 Nationalists, which included two women, they were to the

25 left of that traffic light that one can see to the left?

26 A. That's correct, my Lord.

27 Q. In other words they would have been in front of the Number 7

28 bakery?

29 A. At the junction there, yes.

30 Q. Looking up towards the church?

1 A. That is correct, my Lord.

2 Q. And is it my understanding that the group of 30 to
3 40 Loyalists, they would have been standing around, across
4 the road around the second traffic light which is roughly
5 just to the right of centre of the photograph?

6 A. They were in the middle of the junction there.

7 Q. And in terms of the numbers, could you see the roadway in
8 front of Eastwoods?

9 A. Yes.

10 Q. If there was someone lying unconscious on that roadway would
11 you have seen them at that time?

12 A. Yes.

13 Q. So clearly there was no one unconscious at that time?

14 A. That is correct, my Lord.

15 Q. And your evidence is that Mr Hamill was still on his feet
16 because at a later stage you saw him running towards someone
17 with a bottle.

18 MR KERR: I think my friend has to be fair with what the witness
19 said. The witness said that he didn't know if it was
20 Mr Hamill, he made certain suppositions from facts that he
21 saw, but he doesn't know it was Mr Hamill.

22 LORD JUSTICE McCOLLUM: Yes, I don't think he ever said that
23 with certainty, Mr Orr.

24 MR ORR: Allowing for your supposition that it was Mr Hamill, am
25 I right in saying he must still have been on his feet, if it
26 was Mr Hamill, at the time that you were in the position
27 that photographer was?

28 A. Yes, that's correct.

29 Q. And there were two groups cat calling at each other?

30 A. Yes, that is correct.

1 Q. And then you've told us there were five fights, four or five
2 fights.

3 A. I couldn't honestly say how many fights there were. I
4 mean, there were fights right across the street.

5 Q. I mean, the one nearest to you would have been the one
6 outside the Number 7 home bakery.

7 A. Possibly, yes.

8 Q. One further away from you was outside Eastwoods.

9 A. Yes.

10 Q. And you decided to go to the second, the furthest away of
11 those two fights, whatever other fights were going on.

12 A. Yes.

13 Q. And did you go over on your own to that fight or did you go
14 over with any other police officers?

15 A. As far as I can remember I went by myself.

16 Q. And can I ask you, what was the composition of the number of
17 people involved in that fight?

18 A. There appeared to be three or four persons on one
19 person.

20 Q. So it was basically three or four Loyalists onto one
21 Nationalist?

22 A. Yes.

23 Q. Is that clearly what it was?

24 A. Yes.

25 Q. And are you saying that you on your own grabbed the
26 Nationalist and took him out of that fight?

27 A. Yes.

28 Q. And would that have been outside Eastwoods?

29 A. That was outside Eastwoods, that's correct, my Lord.

30 Q. Was it on the footpath or the roadway outside Eastwoods?

1 A. I couldn't honestly say.

2 Q. If there had been someone lying prone on the ground outside
3 Eastwoods, on the roadway, could you have missed them?

4 A. No.

5 Q. So clearly Mr Hamill was not lying on the ground at that
6 time.

7 A. That is correct.

8 MR ORR: I see it is ten past one.

9 LORD JUSTICE McCOLLUM: We will rise then until ten past two.

10 Lunch

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

B.C.7 2.10 p.m.

CONSTABLE A NEILL: CROSS-EXAMINED BY MR ORR (CONTD.)

THE JUDGE: I meant to put a question to you this morning, Mr Kerr. In relation to Count (2), what evidence or what incident are you relying upon to ground the second count?

MR KERR: Based on the totality of observations. There are two sightings. The first and second occasion when he said that he was further involved in trouble.

THE JUDGE: You are referring to both?

MR KERR: Yes.

MR ORR: Constable Neill, if I could go back to the very start of the incident, you were initially sitting in a lay-by and there was no trouble? A. Correct.

Q. There were people ... all the police officers have said that there were dribs and drabs coming from Bridge Street up along the main street? A. Correct.

Q. Most of them on the other side to where the police Land Rover was? A. I think everybody was coming up on the other side. The two I saw on our side.

Q. You were the driver of the vehicle and you moved from the layby outside the sports shop out ... and your intention was to travel down to the bottom of the town? A. Yes.

Q. What was the purpose of that? A. There was a number of people coming up from the bottom of the town and you get trouble down at the Country (inaudible) and Boss Hoggs. You have people standing in and about Wellworths at times as well.

Q. Do I take it that that sort of trouble would be one section of the community with drink taken falling out with each other? A. That would be correct.

B.C.8

Q. That is not a sectarian problem? A. No.

Q. That is those from the Loyalist side coming back from Banbridge in buses going in for late night carry-outs of food and squabbling and falling out? A. Yes.

Q. You decided to go down to see that? A. Yes.

Q. As you started to drive down you moved out from the lay-by, you were moving across the mouth of Woodhouse Street?

A. Yes. I would have to pass it.

Q. What was it that caused you to stop in the position of

LR2? A. As we moved off from LR1 in the lay-by a male crossed the road in front of us, mouthed something at us when I stopped. The vehicle was stopped approximately at LR2 and Reserve Constable Cornett opened the door and asked him what he said.

Q. Do I take it that you were forced to stop by someone walking in front of you? A. No, not forced. It was to find out what he said that we stopped.

Q. Where had this man come from? A. I took it that he came from Thomas Street.

Q. Would I be right in saying that you had previously carried out similar duties in the town centre of Portadown before this night? A. Correct.

Q. Would I be right in saying that this staggered cross roads, this was a potential trouble spot? A. It is one, yes.

Q. Would that be because you have people from normally the largely Loyalist community coming up along the main street heading up past the church? A. Correct.

B.C.9

Q. Directly crossing their path, people from the Nationalist community coming from St Patrick's Hall?

A. Correct.

Q. Were you aware of whether or not there was a function on in St Patrick's Hall that Saturday night? A. I can't say. I know there was a function on in a rugby club further out of the town.

Q. What direction would the rugby club be? Is that out towards Craigavon? A. Yes.

Q. So, would people from the rugby club be travelling up the main street? A. Yes.

Q. So, in general terms, one side of the equasion would be going the full length of the main street? A. Yes.

THE JUDGE: Can I go back you say that you can't say that you were aware there was a function in St Patrick's Hall. Can you elaborate on that? Would it not have been important for you to have known whether there was such a function or not?

A. I can't honestly remember.

Q. Would it or not have been of significance that there was a function in St Patrick's Hall? A. It would have been, yes.

Q. Did you make any enquiry about that? A. I can't recollect.

Q. Can I take it that you were not concerned whether there was a function in St Patrick's Hall or not? A. I was concerned, but that is why we were in that particular location.

Q. Does that suggest that you did know that there was a function in St Patrick's Hall? A. I can't

B.C.10

recollect whether we knew or not.

Q. Would you have assumed that there was? A. I probably would assume that there was. Usually on a Saturday night there would be a dance on.

MR ORR: Did you start work on Saturday afternoon at a quarter to four? A. Correct.

Q. Were your early duties in communication control?

A. Correct.

Q. Were you there till after four o'clock? A. From four o'clock?

Q. From four o'clock onwards? A. Correct.

Q. Did you do communication duties up till eleven o'clock on the Saturday night? A. That would be correct.

Q. Were you then relieved and at eleven did you have a break? A. Correct.

Q. Was it after that break that around midnight you were detailed to do these public order duties by a Sergeant?

A. Correct.

Q. Was that Sergeant ^{P89} ? A. Correct.

Q. Do I take it that you were going out with Constable Atkinson, Constable ^{P40} and Constable Cornett in a police Land Rover or jeep? A. Yes.

Q. So, as the four of you were going out there where were you detailed to do your duties? Was this just travelling wherever you are, or were you to concentrate on any area?

A. It was Saturday patrols in the town centre. That was within the barriers.

Q. Would you not have been briefed by the Sergeant before

B.C.11

you went out about the various events that were on so that you would know where to be looking for trouble? A. Yes.

Q. Because Portadown has now got this reputation that there are sectarian flashpoints? A. Yes, that is correct.

Q. So, clearly it would have been important for you to know if there was a function in St Patrick's Hall?

A. Yes.

Q. Were you not told that by the Sergeant before you went out on duty? A. I can't recollect. I more than likely was.

Q. Would it be right in saying if there was a function in St Patrick's Hall other than those who were lucky enough to get taxis that people from the Nationalist community have to cross the main street to get into Woodhouse Street and into the Tunnel area? A. Correct.

Q. And the rugby club and the Coach, the groups travelling back travel across them? A. Yes.

Q. That makes this a potential flashpoint at this junction? A. Yes.

Q. Would there have been other flashpoint areas? You have mentioned down where the chip shops were. That would not have been as serious because that is the Loyalist element falling out among themselves? A. Yes.

Q. What other areas would you have been concerned with within the town centre? A. Mandaville Street, (inaudible) bar. Further down Bridge Street where the Protestants would come across the car park.

1 B.C.12

2 Q. Do I take it that Mandaville Street would be an
3 area that you would be concerned about in relation to
4 sectarian trouble? A. Yes.

5 Q. Would that be people travelling across from the
6 Nationalist side? A. Bennett's, a sort of mixed
7 bar, you get some people coming from that, people going
8 out further out of the town, and some Protestants would
9 go down through Magowan Buildings to stone the taxis.
10 We usually get fights in there as well.

11 Q. We have heard about the Royal Oak. It is in
12 Woodhouse Street? A. Yes.

13 Q. Would the patrons of that be travelling from it
14 down into the Tunnel area? A. Yes.

15 Q. The Loyalist elements would be trying to attack
16 them between the bar and the Tunnel? A. Yes, as
17 well as coming down from the main street.

18 Q. So, those are the three potential trouble spots,
19 and the fourth one would be a single religion trouble spot,
20 namely, down at the food bars? A. Yes.

21 Q. As you were placed in the lay-by the only trouble
22 spot you could really properly police was the one of the
23 people coming from St Patrick's Hall across?

24 A. You can see back up West Street.

25 Q. Can you see into Mandaville Street?

26 A. No. You can see back up West Street and you can
27 see further down the town to Wellworths.

28 Q. Where there is trouble in Mandaville Street, can
29 you see it from that position? A. No. They

30

1 B.C.13
2 out from the bar across up West Street and they go across
3 the car park to Magowan Buildings.
4 Q. In terms of trouble from the Royal Oak Bar,
5 heading towards the trouble, you couldn't see it from
6 where you were? A. No.
7 Q. The situation is that you moved from LR1 to LR2,
8 then to LR3, your concern at that stage was the bottom of
9 the town. In other words, Loyalists falling out among
10 themselves? A. I was just going down to have a
11 look to see what was going on and back up again.
12 Q. Whilst you were stopped at LR2 you have told us a
13 man walked in front of the Land Rover? A. Yes.
14 Q. What can you tell us about him in terms of his
15 description? A. I couldn't describe him.
16 Q. Could you say anything about the colour of his
17 hair, the length of it? A. No. I didn't take any
18 particular notice of him at that time.
19 Q. How far away would have been from you? You
20 are sitting in the driver's seat of the Land Rover – how far
21 away was he from you? A. From we moved out
22 of the lay-by, he sort of walked across in front of us at that
23 stage. He was about at the footpath whenever we got to
24 LR2, so anything from about forty feet upwards moving
25 down, and then I got closer to him.
26 Q. Did he not walk in front of the Land Rover causing
27 you to stop at LR2? A. No.
28 Q. So, Constable Atkinson is wrong? A. I
29 was driving.
30

1 B.C. 3/4
2 Q. Did he not walk forward in front of you as you
3 were in the position of LR2? A. No, he didn't.
4 Q. At that hour of the night I take it that the people
5 would be mouthing at the occupants of police vehicles and
6 you would immediately assume that they were mouthing
7 obscenities, or abuse, at you? A. No.
8 Possibly normally, but he wasn't.
9 Q. He attracted your attention because he wasn't
10 using or not doing what you would expect some people do
11 at that time of the night? A. Correct.
12 Q. It was something that caught your attention and
13 enabled you to concentrate on him? A. Correct.
14 Q. Whatever it was, it was sufficient to get the
15 policewoman in the front passenger seat to open the door
16 to ask what it was that he said? A. Correct.
17 Q. So, this wasn't drunken abuse, this was someone
18 trying to get a message to the four occupants of the Land
19 Rover? A. You could say that.
20 Q., What was the message which he was conveying to
21 the occupants of the Land Rover? A. I couldn't
22 hear him properly, but he said something about there was
23 people coming down from St Patrick's Hall.
24 Q. After he said that, where did he go?
25 A. He went down into Woodhouse Street.
26 Q. Here is someone travelling the way the Nationalist
27 group would have to travel. He is alerting you to the fact
28 that there are people coming down Thomas Street and you
29 are aware that there are people coming up from the
30

1 B.C.15
2 bottom of the town on the left hand footpath?
3 A. Correct.
4 Q. So, presumably once you heard that comment
5 even if you had not been aware before that there was a
6 function on in St Patrick's Hall, you must have been very
7 anxious to make sure that this was not going to be a night
8 when there was going to be a flashpoint and your presence
9 was going to do something to help it? A. Correct.
10 Q. Did you give any instructions – you are the only
11 full-time Constable in the vehicle – did you give any
12 instructions as you moved from LR2 to 3?
13 A. No, not at that time.
14 Q. For example, when you were sitting at LR3 could
15 you see the mouth of Thomas Street? A. No. I
16 did look up Thomas Street when I was at LR2.
17 Q. Once you moved to LR3 you have the rear of the
18 Land Rover angled back? A. Correct.
19 Q. The rear of the Land Rover is angled back towards
20 the mouth of Thomas Street? A. Yes.
21 Q. As you are sitting in the driver's seat with your
22 flak jacket on and the wheel close to you, you couldn't see
23 what was happening at the mouth of Thomas Street?
24 A. Correct.
25 Q. What about the passenger in the front passenger
26 seat, could that person have seen what was happening?
27 A. No.
28 Q. So, the only persons in the Land Rover who could
29 have kept an eye out for any potential trouble at the mouth
30

1 B.C.16

2 of Thomas Street were the two Constables in the back?

3 A. Correct.

4 Q. Did you say to either of them "Look, keep an eye
5 out the back windows there. That man has just made a
6 comment that there is a crowd coming down from St

7 Patrick's Hall."? A. No. Reserve Constable
8 Cornett said to me that is what the man had said.

9 Q. Once she said that to you, did you make sure that
10 one of the occupants of this Land Rover at least was looking
11 back for the potential trouble spot? A. I had

12 already checked Thomas Street, but there was nobody
13 coming down at that time.

14 Q. Hadn't you moved to LR3? A. We did
15 whenever Stacey Bridgett and the other youth came up and
16 squared up to the man that had spoken to us.

17 Q. Are you saying because you looked up Thomas
18 Street, after you were told about a crowd coming down,
19 because you looked up once and it was clear that you were
20 not interested in Thomas Street after that?

21 A. No, I am not saying that.

22 Q. What are you saying? If this is a trouble spot and
23 a member of the public is alerting you to a potential
24 difficulty, two rival crowds at a flashpoint area, would you
25 not be making sure that somebody was checking to see
26 what was happening at that junction? A. I would
27 take it that they were looking out the back. I can't say.

28 Q. You concentrated on moving your vehicle onto
29 the stop lines at the mouth of the street so that you were
30 angled with your back with the Land Rover pointing

1 B.C.17
2 towards the mouth of Thomas Street? A. I didn't
3 concentrate on that. Whenever two youths approached
4 the other fellow I moved into that position to see what was
5 happening there.
6 Q. This man who was giving you some advice - "There
7 is a group coming down Thomas Street from St Patrick's
8 Hall." - he then is confronted by two youths?
9 A. Yes.
10 Q. And in terms of those two youths you knew one of
11 them? A. I knew one of them after he came up to
12 the Land Rover.
13 Q. He was called Stacey Bridgett?
14 A. Yes.
15 Q. Would Stacey Bridgett have been one of the
16 Nationalist group or the Loyalist group? A. He
17 was the Loyalist.
18 Q. He was with someone else? A. Yes.
19 Q. And what the two of them did was they
20 confronted this man who had given you a piece of help
21 about there being a crowd coming down?
22 A. Yes.
23 Q. And having confronted him the policewoman
24 shouts something to them and the three of them split up?
25 A. Yes.
26 Q. So, at that stage you didn't have to concentrate
27 on any potential trouble in woodhouse Street?
28 A. No. They separated. The two moved off towards
29 the Alliance & Leicester. Reserve Constable Cornett was
30 trying to watch them and I was making sure the gentleman

1 B.C./8

2 got down into Woodhouse Street for it was quite normal for
3 Loyalists to go down into woodhouse Street to attack
4 somebody.

5 Q. Once that trouble situation had faded the two
6 Loyalists moved over towards the Alliance & Leicester and
7 the man who gave you advice moved on down Woodhouse
8 Street? A. Yes.

9 Q. Did it not occur to you then, once that small
10 group of three people had gone, to get out of the Land
11 Rover to see if the group were then coming down Thomas
12 Street? A. No.

13 Q. He, having alerted you to it, and you being aware
14 that it was a flashpoint area? A. No, not at
15 that time.

16 Q. It didn't occur to you to reverse the Land Rover
17 and turn it so that the back of it was facing down
18 Woodhouse street and you are sitting in the front with a
19 head-on view of the Loyalists coming up and the
20 Nationalists coming across? A. Not at that time.
21 We were still watching him walking down Woodhouse
22 Street.

23 Q. What happened was that the two who had shown
24 the potential to cause trouble, that is, Bridgett and the
25 other youth, they come over to your Land Rover?

26 A. Yes.

27 Q. And the front passenger door is opened?

28 A. No, it was open.

29

30

1 B.C. 19

2 Q. And they have a conversation with the

3 policewoman and yourself? A. I had a brief

4 conversation and asked them where they had been.

5 Q. You knew where they had been, they had been to

6 the Coach? A. No, I didn't know till I asked

7 them.

8 Q. They told you? Didn't they tell you a bit more?

9 A. Yes.

10 Q. Did you discover what one of them did for a

11 living? A. Yes.

12 Q. What did he do? A. He was a painter.

13 Q. Did you discover what he had done at the Coach in

14 terms of his job as a painter? A. Yes, he had

15 given his car to the owner of the Coach. They had bought

16 the Seagoe Hotel and he was looking for a job.

17 Q. So, there was this conversation and one of these

18 two was armed with a cider bottle? A. Yes.

19 Q. It didn't occur to you as you are having this social

20 chit chat - "I had better keep someone in the back looking

21 out.", or, "I should get out to make sure that there is no

22 trouble coming at the junction of Thomas Street and Main

23 Street."? A. The conversation was only a matter

24 of moments, really.

25 Q. It wasn't any long drawn conversation?

26 A. No.

27

TO S.B. 2.35 p.m.

1 Wednesday, 24th February 1999

2 R V Paul Hobson

3
4 SB from BC 2.30

5 CONSTABLE ALAN NEILL

6 (Cont'd) Cross-examination by MR ORR:

7 Q. And after that conversation do I take it that the driver's
8 door was opened whilst the conversation was still going on?

9 A. Yeah, it possibly was?

10 LORD JUSTICE McCOLLUM: Sorry, I didn't get that answer. What
11 did you say?

12 THE WITNESS: Sorry?

13 LORD JUSTICE McCOLLUM: I didn't catch your answer there.

14 THE WITNESS: What was the question?

15 MR ORR: Were yourself and Woman Constable Cornett still talking
16 to the two Loyalist youths when your door was pulled open?

17 A. She was still talking to them at that stage, yes.

18 Q. And when it was pulled open you must have been mystified as
19 to what this was all about.

20 A. That's correct.

21 Q. And someone tries to pull you out of the vehicle?

22 A. That's correct, my Lord.

23 Q. You get yourself out and you've got not one but two people
24 who are complaining about the police watching something
25 happen and doing nothing.

26 A. That's correct, my Lord.

27 Q. And you have said to us that you asked them or you asked
28 this man what it was -- did the woman, by the way, did she
29 banging on the doors or the Land Rover at all?

30 A. No, she didn't.

1 Q. Sorry?

2 A. No, she didn't.

3 Q. Was there anyone, whilst the four of you were still inside
4 the Land Rover, was there anyone who banged on the Land
5 Rover asking you why had you allowed it to happen, had you
6 not got out to stop it?

7 A. Not that I can recollect, it was just as far as I can
8 remember it was the man at the door pulling me out. The
9 female was somewhere behind him, directly behind him.

10 Q. And whenever you did get out, Constable, am I right in
11 saying that you never found out when you got out what it was
12 that these two people were complaining about?

13 A. That's correct.

14 Q. And there was nothing that you could see that they could
15 have been talking about.

16 A. Everybody was just standing shouting at each other,
17 that's all.

18 Q. Yes, there was no one had been downed at that stage.

19 A. No, there was no one on the ground.

20 Q. So at its height a man and a woman were complaining about
21 you, permitting two rival groups to shout abuse at one
22 another.

23 A. Yes.

24 Q. Is that really what you think they were criticising you for?

25 A. I couldn't say what they were criticising me for, I
26 hadn't seen anything happen. From their actions or from what
27 they were saying something else had happened, but they
28 didn't make me aware of what it exactly was.

29 Q. Well now, moving on from that, Constable, you were the first
30 police officer to get out of the vehicle.

1 A. Yes.

2 Q. Shortly after you did the two in the back get out?

3 A. Yes.

4 Q. And after you had been talking for a very brief moment to
5 this man who had been complaining, you then went to the rear
6 of the Land Rover?

7 A. I walked towards the rear of the Land Rover, yes.

8 LORD JUSTICE McCOLLUM: Can you tell me something, it may be a
9 difficult question to answer, but after you'd all, the three
10 of you had dismounted from the Land Rover, can you remember
11 what was the position about the doors of the Land Rover, the
12 rear doors and the front driver's door? Were they left open
13 or were they closed?

14 THE WITNESS: It depends, my Lord, because the doors are very
15 heavy, if they were sitting at a bit of an angle they would
16 just normally close. The back doors one would close and the
17 other would fall away just depending on whether you were
18 sitting very level or not.

19 LORD JUSTICE McCOLLUM: It would be unlikely I suppose that the
20 rear doors would be secured if the officers got out and
21 there was still somebody there watching the Land Rover, as
22 it were.

23 THE WITNESS: They probably wouldn't have been secured.

24 LORD JUSTICE McCOLLUM: Would not have been?

25 THE WITNESS: Yeah.

26 LORD JUSTICE McCOLLUM: What about your door, the driver's door,
27 would it be likely to be open or closed do you think?

28 THE WITNESS: It just depends, as I say, on the angle, I
29 wouldn't honestly know, either closed or not.

30 LORD JUSTICE McCOLLUM: Yes, very good.

1 MR ORR: When the three of you were standing at the rear of the
2 Land Rover where was the policewoman?
3 A. I don't honestly know.
4 Q. Did you see her at any stage outside the Land Rover?
5 A. Yes, I did.
6 Q. Did you see her at any stage away from the Land Rover?
7 A. I couldn't honestly say, I don't think I ever actually
8 saw Reserve Constable P40 until we were trying to push
9 the crowd back up the street.
10 Q. So once the three of you then were at the back of the
11 vehicle you are confronted by two rival crowds.
12 A. Yes.
13 Q. And the situation is there are three of you and the numbers
14 in terms of the two rival crowds are, there's a great
15 imbalance.
16 A. That's correct.
17 Q. There's 30 to 40 on one side and there's eight to ten on the
18 other.
19 A. Yes, that would be correct.
20 Q. It didn't occur to the three of you to actually stretch
21 yourselves out across the road between the two groups?
22 A. As I got to the back of the Land Rover I was watching
23 what happened and we wouldn't have got a chance to even get
24 across the road because fights just broke out across the
25 street at that stage.
26 Q. And so you decided that what you would do is break up one of
27 the fights?
28 A. Yes.
29 Q. And save one of the Nationalist group and put him into
30 Woodhouse Street?

1 A. That is correct.

2 Q. Is it possible that Constable Atkinson was with you when you
3 did that, and that the two of you did it?

4 A. It's possible, because the person I remember taking out
5 of that particular fight I had to take him out of two or
6 three fights after that. Each time I took him away he kept
7 on coming back in. So it's not necessarily that one, it may
8 have been --

9 Q. Let's just take that fight?

10 LORD JUSTICE McCOLLUM: Are you saying that you took the same
11 person across the road and into Woodhouse Street two or
12 three times?

13 THE WITNESS: Yes, that's correct, my Lord.

14 LORD JUSTICE McCOLLUM: The same person each time?

15 THE WITNESS: Yes, it was the fella with the sort of cream --

16 LORD JUSTICE McCOLLUM: Did you take anyone else over to
17 Woodhouse Street?

18 THE WITNESS: Possibly -- I can't honestly remember. That
19 particular one sticks in my mind because I had to do it, he
20 just kept on coming back every time.

21 LORD JUSTICE McCOLLUM: Can you give me an idea of how many
22 times you were across the road saving these people and
23 bringing them into Woodhouse Street.

24 THE WITNESS: I couldn't honestly say.

25 LORD JUSTICE McCOLLUM: Give me some idea.

26 THE WITNESS: Well, that particular fella, as I say, it was at
27 least three or four times.

28 LORD JUSTICE McCOLLUM: Three or four times for one particular
29 person.

30 THE WITNESS: Yes.

330

1 LORD JUSTICE McCOLLUM: Well, what about others then?

2 THE WITNESS: I couldn't honestly say. It was just that one
3 particular one sticks in my mind.

4 LORD JUSTICE McCOLLUM: Can you say whether you helped anyone
5 else in this way or not?

6 THE WITNESS: I couldn't honestly say, my Lord. I more than
7 likely did but I can't honestly remember.

8 MR ORR: When you brought this youth on the first occasion, if
9 Constable Atkinson was with you could he have missed seeing
10 this other person throwing a punch and hitting this youth in
11 the face?

12 A. He wasn't with me at that stage. One particular occasion
13 I remember taking that person away myself. It's possible
14 that Reserve Constable Atkinson was with me at some other
15 time, but I remember at one particular stage that same
16 person, I took him down Woodhouse Street and it was just at
17 the side of the Alliance and Leicester. And as I was trying
18 to get him to go home the fella just up behind me and just
19 punched him straight in the face.

20 Q. No, but this isn't any other, this is the first time.
21 Constable Atkinson has told us that from the back of the
22 Land Rover he and you ran over to a fight near Eastwoods,
23 that the two of you took the Nationalist or the Catholic out
24 of that, it was a three to one fight, there were three
25 Loyalists, one Nationalist, and that the two of you ran that
26 youth across and into the mouth of Woodhouse Street.

27 A. Well, I have no recollection of that.

28 Q. Well, how could, I mean, if that was the same incident did
29 you at any stage take a youth over with Constable Atkinson?

30 A. I have no recollection of it.

1 Q. And Constable Atkinson says that after having put that youth
2 into the mouth of Woodhouse Street he didn't see anyone hit
3 him, and he went straight back to the rear of the Land Rover
4 and he then saw two people lying on the ground. That
5 couldn't have happened if what you're telling his Lordship
6 is right.

7 A. I can only tell you what I can actually remember. I have
8 no recollection of that.

9 Q. Because what you're telling us is that in effect Mr Hamill
10 was actually running to somebody at a time before you saw
11 him lying prone on the ground.

12 A. Yes.

13 Q. You think it was him.

14 A. Yeah.

15 Q. Could it have been Mr D perhaps that was doing that?

16 A. It could have been anybody, I just, as we have already
17 gone through, I believed that it was Mr Hamill once I got
18 over to Mr Hamill, I recollect seeing the two persons
19 running at each other. I can't say whether it was Mr Hamill
20 or Mr D or anybody else.

21 Q. Well, let's then take it to this fight, three to one, that
22 you split up. Can you tell us anything about the description
23 or dress of any of the three Loyalists who were attacking
24 the one Nationalist?

25 A. No.

26 Q. In terms of height?

27 A. No.

28 Q. In terms of age?

29 A. No.

30 Q. Hair colour, length, clothing?

1 A. I have no recollection.

2 Q. Nothing?

3 A. No.

4 Q. And you then take hold of this man on your evidence, who has
5 punched the youth in the mouth at Woodhouse Street, don't
6 you?

7 A. Yes.

8 Q. You let go of the youth you saved and you grab his attacker,
9 and you walk his attacker back to the Land Rover.

10 A. I ran back up the street.

11 Q. Ran back to the Land Rover. Can you tell us anything about
12 the age or description of the youth whom you saw attacking
13 that youth in Woodhouse Street?

14 A. He was in his late teens, early twenties. I kept on
15 asking him his name and he just kept on saying I'm sorry,
16 I'm sorry.

17 Q. What about his clothing?

18 A. Don't honestly know.

19 Q. Had he any facial hair?

20 A. No, I don't think so.

21 Q. What colour was his hair?

22 A. I think it was brown as far as I can remember.

23 Q. Was it short or was it long?

24 A. I don't recollect.

25 Q. And do I take it that you were standing within inches of
26 that person once you'd grabbed him?

27 A. Obviously, yes.

28 Q. Is that right. And when you got back to the Land Rover what
29 happened then, Constable?

30 A. There was as far as I can mind there was bottles being

1 fired and smashed on the roof of the Land Rover, there was
2 glass came showering over the top of us.

3 Q. And what happened to the youth you'd brought to the Land
4 Rover?

5 A. Well, at that stage there was still only three of us, or
6 the other three officers and myself. My concern was for
7 the --

8 Q. So at that stage although you had physically in your
9 possession a youth who had assaulted another youth.

10 A. Yes.

11 Q. You were more concerned about the two uniformed police
12 officers who were in the street?

13 A. Yes.

14 Q. Is that what you are saying?

15 A. Yes.

16 Q. And had you got to the rear of the Land Rover where was
17 Constable P40

18 A. He was in the middle of one of the fights somewhere, I
19 couldn't honestly say whereabouts.

20 Q. Did you not see him?

21 A. Not that I can recollect, he certainly wasn't in the
22 back of the Land Rover now.

23 Q. Where was Constable Atkinson?

24 A. As far as I can remember he was in the middle of the
25 road, in the middle of a fight pulling somebody out.

26 Q. And they're the two men that you are looking for.

27 A. Yes.

28 Q. Did you at that stage, when you were at the rear of the Land
29 Rover, did you see anyone lying on the ground?

30 A. It was at some stage when I was at the back of the Land

1 Rover that I remember seeing Mr Hamill lying on the ground.

2 Q. Well, do I take it then that you must have seen the person
3 you think was Mr Hamill running towards the person with the
4 glass or the bottle before you saw Mr Hamill on the ground?

5 A. Yes.

6 Q. It was definitely before that. I remember that, that was
7 before I saw Mr Hamill lying on the ground. As I say, I had
8 taken the same person down into Woodhouse Street several
9 times. That particular incident when he got punched on the
10 face was one that I particularly remember because I had to
11 take the other fella back up the street. It may have been
12 one of the other times that I actually saw Mr Hamill lying
13 on the ground.

14 Q. So would that suggest that at the time you brought this
15 youth back to the rear of the Land Rover Mr Hamill would
16 still have been on his feet?

17 A. It's possible, yes.

18 Q. Mr D must still have been on his feet?

19 A. That's possible too. I couldn't say which time because I
20 had been into Woodhouse Street taking people in and out, but
21 I can't say exactly how many times or which occasion. This
22 is over a matter of minutes.

23 Q. Right. So whenever you then are looking, is that when you
24 see Mr Hamill, or the person you think was Mr Hamill,
25 running towards someone?

26 A. Yes. It's at one of those times.

27 Q. Well, it must have been when you were at the rear of the
28 Land Rover, was it not?

29 A. It was from the rear of the Land Rover, somewhere near
30 the side of the Land Rover coming out of Woodhouse Street.

1 Q. And at the time you saw that incident what were you actually
2 doing?

3 A. I was coming back out of Woodhouse Street. I was
4 looking --

5 Q. To do what?

6 A. To try and separate more fights, to try and watch my own
7 colleagues, the guns and everything else, you know. Watch
8 out for their safety.

9 Q. Can I ask at what stage did you see Constable Atkinson?
10 Where were you when you first saw him after this incident
11 involving the youth in Woodhouse Street?

12 A. I was in about the back of the Land Rover somewhere. I
13 was looking, whenever I came back out of Woodhouse Street I
14 was looking for them.

15 Q. And do you remember what was happening to Constable
16 Atkinson, or what he was doing?

17 A. He was in the middle of a fight. There was about four or
18 five people in it.

19 Q. And was that shortly after the punch that you have told us
20 about?

21 A. I couldn't say.

22 Q. Was the fight that he was in before or after the two men
23 were knocked to the ground?

24 A. I couldn't say.

25 Q. I can understand that a lot was going on, but surely when
26 you got back to the Land Rover you must be in a position to
27 say was there anyone on the ground.

28 A. On which occasion? I can't exactly say which --

29 Q. After the first occasion.

30 A. I can't say how many times I went into Woodhouse Street,

1 I can't say how many fights there were right across the
2 street, you know.

3 Q. Maybe it's my fault that I'm not making it clear enough,
4 Constable kneel. At the moment I'm dealing with the period
5 within minutes of you getting out of the Land Rover.

6 A. H'mm h'mm.

7 Q. The confrontation with the man who pulled you out or tried
8 to pull you out.

9 A. Yes.

10 Q. The going to the rear of the Land Rover, the running over to
11 collect this man and bring him over to Woodhouse Street.

12 A. Yes.

13 Q. The dragging back of the youth as far as the Land Rover who
14 was punching, that's where we're at, that's the stage we're
15 at now.

16 A. Yes, but I can't say --

17 Q. What I'm asking is; what was happening when you got to the
18 rear of the Land Rover, was there anyone on the ground?

19 A. I can't say that that happened -- as far as, I can only
20 remember bits and pieces of it. I can't put it into
21 chronological order or exactly every single thing that
22 happened. It was one of the times I came to the back of the
23 Land Rover and I saw Mr Hamill lying on the ground.

24 Q. Do you know it was Mr Hamill?

25 A. I know now that it was Mr Hamill, I didn't know at that
26 stage it was Mr Hamill.

27 Q. As distinct from Mr D

28 A. Mr D was outside Number 7.

29 Q. I want to suggest to you he wasn't and I want to suggest to
30 you at no stage was there anyone on the ground outside

1 Number 7. That the two men who were downed were both part of
2 a very small group making their own way home from Saint
3 Patrick's hall and they were downed on the roadway on the
4 church side of the mouth of Thomas street.

5 A. Not to my recollection. My recollection Mr D [REDACTED] was
6 outside Number 7 and Mr Hamill was in the middle of the road
7 outside Eastwoods.

8 Q. Now, you mentioned that you saw Constable Atkinson in a
9 fight.

10 A. Yes.

11 Q. And was that, when you say in a fight, do you mean he was
12 trying to break up a fight or some people were fighting with
13 him?

14 A. I believe he was trying to break up a fight.

15 Q. And does that mean that he was trying to break up two rival
16 groups?

17 A. Yes.

18 Q. Or maybe another three to one situation?

19 A. It's quite possible, I wasn't aware of what exactly --
20 he was in the middle of a fight and I was trying to get him
21 out of it because he was being attacked, he also has a gun
22 on his side which somebody could have pulled out.

23 Q. So the Constable was being attacked?

24 A. There was people -- he's in the middle of a fight. I
25 don't know whether he was, he appeared to be trying to break
26 the thing up. He was being, there was somebody at him as
27 well. I mean, there was -- I can't honestly say what, how or
28 what way he was in the fight. From what I saw he was trying
29 to break the fight up.

30 Q. Well, let's assume he was trying to break the fight up. How

1 many others were there in it, the group?

2 A. There would have been four or five people in it anyway.

3 Q. Did this appear to be from one section or from both

4 sections?

5 A. I don't know, I was just trying to get Reserve Constable

6 Atkinson out of it.

7 Q. Did you pay any attention to any of the four or five?

8 A. No, not at that time.

9 Q. Can you help us in terms of how they were dressed, any of

10 them?

11 A. No.

12 Q. The height of any of them?

13 A. They're in a fight, brawling in the middle of the

14 street, I didn't, you know, they weren't standing up.

15 Q. And what was the outcome of that fight that you are telling

16 us about? You were trying to protect Constable Atkinson,

17 what happened?

18 A. He was in several fights and I tried to extract him,

19 trying to help him as well. So, I mean --

20 Q. And what happened?

21 A. Well, there was one occasion that I remember when I was

22 trying to pull him out that I had seen, I can't honestly say

23 which fight because there was any amount of fights going on.

24 He was in about the middle of the central reservation. I

25 extracted him from that. I couldn't tell you what happened

26 then at that particular point. He got into another fight

27 after that, I remember extracting him from another one and

28 during that then I saw the defendant.

29 Q. Let's take the first two fights that you have told us about,

30 two fights that Constable Atkinson was involved in. In

1 relation to those two fights was there anyone on the ground
2 at the time of the first fight, the one that you went to his
3 rescue the first time?
4 A. I can't honestly say.
5 Q. Well, when were you first conscious of two people lying on
6 the ground?
7 A. There's no point in asking me when, I can't recollect
8 everything in chronological order. I became aware of the
9 person lying outside Eastwoods and the other one, but I
10 can't say exactly when that was.
11 Q. Could I ask you then in terms of the person whom you've
12 described with the goat beard.
13 A. Yes.
14 Q. In relation to him, when did you first see him that night?
15 A. When he was standing over the body outside Eastwoods,
16 Mr Hamill's body.
17 Q. When he was standing over Mr Hamill?
18 A. Yes.
19 Q. And do I take it that you saw him standing over Mr Hamill
20 before you saw him involved with Constable Atkinson?
21 A. Yes.
22 Q. Was there anyone else anywhere near Mr Hamill, if it was
23 Mr Hamill?
24 A. Well, it was Mr Hamill and, no, there wasn't anybody
25 else other than the defendant standing beside him.
26 Q. And can I ask you, what was the duration of your sighting of
27 this man when he was standing over Mr Hamill?
28 A. I don't honestly know, a matter of a few seconds.
29 Q. A matter of a few seconds.
30 A. H'mm h'mm.

1 Q. Could it have been one or two seconds?
2 A. No, I got a clear view of him and saw him standing
3 looking down at him and saying something or shouting
4 something at him. And then he swung his foot at him.
5 Q. Did you at any stage see three men jumping up and down on
6 the head of either of the two men lying on the ground?
7 A. No, I didn't.
8 Q. Stamping on one of the two men on the ground.
9 A. That's the only person that I could say I saw at the
10 body of Mr Hamill.
11 Q. Although you saw the person with either a glass or a bottle
12 running towards him.
13 A. Yes.
14 Q. Now, in relation to that interval of time, how many people
15 were there around at that stage?
16 A. I don't honestly know. The numbers would have been
17 increasing from the original, from the start of the
18 incident.
19 Q. Would there have been as many as 70 or 80 people?
20 A. It's quite possible.
21 Q. Were there still two rival groups?
22 A. Yes.
23 Q. Was the Loyalist group still vastly greater than the
24 Nationalist group?
25 A. Yes, it was increasing.
26 Q. And do I take it that they were people who were still
27 shouting at each other?
28 A. Well, they were mainly fighting. There was some
29 shouting, there was still shouting going on, yes.
30 Q. Do I take it that this was all happening right in front of

1 your eyes?

2 A. Yes.

3 Q. And people were moving from your left to the right and from
4 your right to the left and running away and running forward,
5 and was this just a confused situation?

6 A. I couldn't honestly say because I could just picture --

7 MR KERR: The witness was going to say I can just picture
8 something.

9 THE WITNESS: I can just picture the defendant, I had a clear
10 view, absolute clear view.

11 MR ORR: An absolute clear view.

12 A. Yes.

13 Q. And were you able to see how he was dressed?

14 A. Yes, he had like what appeared to be like a leather
15 waistcoat with casual cloth arms or something like that,
16 either a waistcoat or casual top.

17 Q. A waistcoat or a casual top?

18 A. Yes, like a leather waistcoat, it was like leather with
19 cloth arms, or it was a waistcoat over a jumper or something
20 like that there.

21 Q. What did you originally describe it as?

22 A. That's what I described it as.

23 Q. You originally described it as a waistcoat.

24 A. Waistcoat with cloth arms possibly.

25 Q. Did you ever say before you gave evidence yesterday that
26 there were cloth arms? When you were talking to the police
27 in interview, when you were talking to Sergeant Lawther,
28 when you were making your notes in your notebook, when you
29 were making your first, second or third statement, when you
30 were giving your deposition, did you ever say anything other

1 than it was a waistcoat?

2 A. I don't know.

3 Q. I suggest you didn't. In terms of the waistcoat, what does a
4 waistcoat denote to you?

5 A. It's got no arms.

6 Q. And isn't that what you said when you made your notebook
7 entry and you made your first statement, the man with the
8 goatee beard or the goat beard as you put it, was wearing a
9 leather waistcoat?

10 A. H'mm h'mm.

11 Q. Isn't that right?

12 A. Yes.

13 Q. And whenever you were asked to give evidence at the
14 deposition in Craigavon Magistrates' Court, did you say:
15 As far as I can remember he had a waistcoat on?

16 A. Yes.

17 Q. And yesterday you now suddenly remember it had cloth arms, a
18 waistcoat doesn't have arms.

19 A. I said it was like a jumper. A waistcoat, an actual
20 leather waistcoat or one with cloth arms on it. That's what
21 I was saying.

22 Q. Well, just so that I'm clear, did you ever before you gave
23 evidence yesterday ever mention cloth arms on the jacket,
24 whatever way you want to describe it, that the accused was
25 wearing?

26 A. No.

27 Q. At any stage?

28 A. I don't honestly know.

29 Q. Did you describe it originally just as a leather waistcoat?

30 A. Possibly, yes.

1 Q. Did you maintain that it was a leather waistcoat until the
2 deposition was given and then you said you thought it was a
3 waistcoat, but you'd dropped the leather from it, and then
4 now you suddenly have a waistcoat with cloth arms. Why is
5 your evidence changing as you go along in respect of that?
6 A. I don't honestly know. I mean, it's just what I'm
7 recollecting at the moment.

8 Q. And why, if one takes the same sequence, do you start off by
9 describing the attacker as late twenties, move it to mid
10 twenties, and then yesterday say in his twenties?
11 A. He's still in his twenties.

12 Q. Sorry?
13 A. He's still in his twenties.

14 Q. I mean, presumably you know what age the accused is in this
15 case.
16 A. No.

17 Q. Have you not spoken to anyone about that?
18 A. No.

19 Q. Have you seen any of the clothing that he was wearing?
20 A. No.

21 Q. Had you ever seen the youth before that night or that
22 morning?
23 A. No.

24 Q. In or around Portadown?
25 A. I can't say that he had come to my attention, no.

26 Q. Was he a complete stranger?
27 A. Well, that I hadn't seen him before, yes.

28 Q. Now, as best you can, how long was he beside or at the prone
29 body of Mr Hamill?
30 A. Just I didn't see the whole thing, I just saw him

1 standing there swinging his foot, so that was as much as I
2 saw. I didn't see how long he was standing there.

3 Q. But you're still talking seconds, what you saw?

4 A. Yes, of what I saw.

5 Q. Well, are you trying by answering it in that way, are you
6 trying to suggest that there was a lot more kicking that you
7 didn't see, or what is it you're trying to suggest?

8 A. No, I'm just suggesting that that's what I saw.

9 Q. And did you actually see this youth, or this man, kick
10 Mr Hamill?

11 A. No, I saw him swinging his foot.

12 Q. You didn't see him make contact?

13 A. I didn't see any movement from the body that was prone
14 on the ground.

15 Q. And do I take it that you were looking to see if there was a
16 movement from the body that was prone on the ground?

17 A. No, I got, I was in the middle of a fight at that stage
18 whenever I saw this. I can't say: Hold on a wee minute until
19 I see this, it was just what I saw.

20 Q. Yes, I'm just coming to that. This wasn't a simple situation
21 of you standing surveying the man with the goat beard
22 kicking at, this was something that you saw at a time when
23 you were involved in a fight. And who were you involved in
24 that fight with?

25 A. I don't know.

26 Q. You don't know?

27 A. No.

28 Q. Were they male or female?

29 A. They were male.

30 Q. How many were there?

1 A. Possibly three, two or three.

2 Q. Two, possibly three, two or three. Can you help us in terms
3 of how any of the three of them were dressed?

4 A. No.

5 Q. Age?

6 A. No.

7 Q. Height?

8 A. No.

9 Q. Colour of hair?

10 A. No.

11 Q. Facial hair?

12 A. No.

13 Q. And you in the middle of this fight, you are suddenly taking
14 time to look across to see Mr Hamill, is that what you are
15 saying?

16 A. No, I didn't take time to look across, I saw.

17 Q. What was the situation about the group of two or three that
18 you were fighting with, was that you breaking up two groups
19 or was that two or three from one group fighting with you?

20 A. As far as I can remember I was trying to separate
21 another fight.

22 Q. Trying to separate another fight?

23 A. Yes.

24 Q. And does that mean that your glimpse, a glimpse is all you
25 could have had, of what was happening over at Mr Hamill's
26 prone body?

27 A. Yes.

28 SB to BC 3.05

29

30

1 B.C.20 3.05 p.m.

2 **CONSTABLE A NEILL: CROSS-EXAMINATION BY MR ORR**

3 **(CONTD.)**

4 **MR ORR:** A glimpse? A. A matter of
5 seconds, Yes.

6 Q. Could I ask you, in dealing with that person did
7 you see him before that, or after that, on that particular
8 morning – the person with the goatee beard?

9 A. I saw him after that again.

10 Q. Where did you see him on the next occasion?

11 A. He was in a fight which Reserve Constable
12 Atkinson was trying to break up.

13 Q. How many were there involved in that?

14 A. I don't know. There was at least three.

15 Q. Can you describe the height of any of the others?

16 A. No.

17 Q. The dress of any of the others? A. No.

18 Q. The age of any of the others? A. Whenever I
19 was trying to break that fight up I was trying to extract
20 Reserve Constable Atkinson from it and at the same time
21 trying to push another fellow away, and when I saw the face
22 of this person I realised that it was the same person that I
23 saw standing over Mr Hamill.

24 Q. Was this the second time that you had come to
25 Constable Atkinson's rescue? A. Possibly.

26 Q. Do you think that Constable Atkinson would
27 remember you coming to his rescue twice from him being
28 involved in fights? A. I don't honestly know.

29 Q. Does it surprise you that he has not mentioned
30 any of these fights in his evidence to His Lordship?

1 B.C.21

2 A. He gave his evidence from what I can remember as
3 I have done with mine.

4 Q. What do you say to the suggestion of the two girls
5 who were coming from St Patrick's Hall, the two E,F
6 sisters? They say that a small group of them, five or six,
7 were making their way home after a function in St Patrick's
8 Hall, and that when they reached the junction a group of
9 twenty or thirty attacked Mr Hamill and some of that group
10 attacked Mr D and that it was all over fairly quickly.

11 What do you say to that suggestion? A. They
12 were not on the its quite possible there was an assault
13 before we were aware of it, but neither of them were on
14 the ground whenever we got out of the Land Rover.

15 Q. I am suggesting, following that attack on those
16 two men, that both were lying unconscious on the ground
17 and one of the sisters was with her husband and the other
18 one was taking off her coat to put it under Robert Hamill's
19 head. They say that they remained with those two people
20 prone on the ground, with the exception of one of the
21 sisters who ran over and banged on the Land Rover to ask,
22 or complain, about the fact that the four of you sat in the
23 Land Rover and no-one had come to help. What do you say

24 about that? A. No. There was nobody on the
25 ground whenever we got out of the Land Rover.

26 **THE JUDGE:** Even with hindsight, and no doubt you
27 have thought a lot about this case and had a lot to
28 consider, can you offer any possible explanation or incident
29 that might have happened to precipitate this man coming
30 over and opening the doors of the Land Rover and grabbing

1 B.C.22

2 you by the arm? Can you point to anything at all in the
3 whole evidence that would seem to have precipitated that?

4 A. I believe there was possibly some assault that
5 happened prior to us knowing about it but that it had split
6 up in that short time. After we got out after the chap
7 came over to the door and got us out of the Land Rover
8 then a further fight ensued.

9 **THE JUDGE:** You think that some assault happened
10 that has not been the subject of any further proceedings or
11 anybody knowing anything about it or anyone being injured
12 that might have precipitated this approach to the Land
13 Rover? A. I believe so.

14 Q. Can you relate to any of the events, first of all,
15 you appreciating that you needed assistance, or did you
16 ever think that you needed assistance? A. Yes, My
17 Lord.

18 Q. At what point? What was the point you would say
19 at which you felt that you needed assistance?

20 A. Just after we got out of the Land Rover.

21 Q. Did you do anything about that?

22 A. We shouted to Reserve Constable [REDACTED] to
23 contact or call the station on the radio.

24 Q. Can you relate anything at all to the arrival of the
25 ambulance? A. No, I can't recollect the
26 ambulance arriving, but I remember it being there.

27 Q. Can you relate any event to the arrival of
28 reinforcements? A. No, I can't. The first I

29 became aware was when one of the cars came down
30 through the town, but I couldn't say exactly when that was.

1 B.C.23

2 Q. Can you say whether it was before or after the
3 arrival of the ambulance? A. I couldn't
4 honestly say. I have no recollection.

5 **MR ORR:** In terms of the interval, and again I
6 appreciate that you have saved now one person taken into
7 the mouth of Woodhouse Street, and you have saved
8 Constable Atkinson on at least three occasions, and the first
9 person that you took back into Woodhouse Street on
10 another two or three occasions – apart from doing all that
11 and grabbing the person punching, have you any indication
12 in your mind of the time interval between you being pulled
13 out of your vehicle and the arrival of the ambulance?

14 A. No, I couldn't say. I would say the whole thing
15 lasted for approximately half an hour. It seemed like
16 fifteen to twenty minutes before anybody arrived to help
17 you.

18 Q. So, you think that the fighting was going on for
19 fifteen to twenty minutes? A. From what was
20 happening at that stage that appeared to be the case.

21 Q. Do you know what time the function is over at St
22 Patrick's Hall? A. I think 1.30.

23 Q. Are you aware that the radio message for the
24 ambulance was at 1.48? A. No.

25 Q. That is 18 minutes later. So, if the people stayed
26 to the end of the function at 1.30 they would have had to
27 walk the length of Thomas Street before they could get to
28 this confrontation? A. Can I ask you what
29 was the original call put in for assistance?

1 Q. The evidence has not been given, but as I
2 understand it, it appears that the first request for
3 assistance was at 1.45. A. Well, I take into
4 consideration that people have to finish their drinks up,
5 walk down the street. I don't know what time it actually
6 started so I have it approximately at 1.40. I am not aware
7 of exactly what time it was at.

8 Q. Could it all have been over fairly rapidly before
9 the two men were both lying unconscious on the ground?

10 A. Not with only three of us on the town. You are
11 expecting three men to try and split up what was going
12 from thirty to forty people up to possibly a hundred
13 people. We did our best.

14 Q. The situation is what I am suggesting, that the
15 incident, the attack on the defenceless Mr Hamill and Mr
16 D was over and done before any of the four of you
17 stepped out of that Land Rover? A. No.

18 Q. And that was why the people were complaining -
19 the man and the woman? A. I don't believe
20 so, My Lord.

21 Q. And that anything else that you saw was very, very
22 short after that, after the two men had been downed?

23 A. I do not believe so.

24 Q. And as you have moved along your description of
25 the accused has changed in terms of age and in terms of
26 dress, and it is only when you come to making your
27 depositions at the Magistrates' Court that you suddenly put
28 a height on him. Does that not seem strange?

29 A. I have not got a full recollection of everything
30 that happened. I can't say.

1 B.C.25

2 Q. Whenever you entered in your notebook and filled
3 in your notebook how did you describe can you

4 remember how you described this person with the goat
5 beard? A. Goat beard, round face. Like a
6 waistcoat on, or something like that.

7 Q. Did you describe him as late twenties. Goat beard.
8 Leather waistcoat. Is that what you wrote?

9 A. Do you want me to check my notebook?

10 Q. Yes, please? A. Yes.

11 Q. Isn't that the extent of the description which you
12 gave to the accused? A. Yes.

13 Q. What did you describe in your notebook as you
14 having seen him do? A. Seen kicking male on
15 ground.

16 Q. That is not your evidence now. What you are now
17 saying is that you saw him kicking at the male on the
18 ground? A. Yes.

19 Q. Why does that change? A. Because I
20 made a further statement to Detective Sergeant Bradley
21 particularly in relation to that.

22 Q. Isn't that the extent of his description of that
23 person on that night - late twenties, goat beard, leather
24 waistcoat. Seen kicking male on ground outside - I am not
25 sure what that next word is? A. 'Eastwoods.'

26 Q. Probably? A. Is it not expanded in
27 the statement? This is an aide memoir more than anything
28 else.

29

30

1 B.C.26

2 Q. You have told us that it was written after you
3 made your statement? A. It is only a basic run-
4 through of what I had written in my statement.

5 Q. Why make a statement and then when you are
6 writing an aide memoir change what you had written in
7 your statement? Is there any reason for that?

8 A. What had I changed it from?

9 Q. Your statement that you have told us today was
10 made first? A. Yes.

11 Q. Your statement was 'During this a male, late
12 twenties, round face with goat beard and very short hair,
13 wearing a leather type soft casual waistcoat, was near me
14 and I saw him kick at the injured man I now know as Robert
15 Hamill.? A. Yes. 'Kick at.'

16 Q. 'The male with the goat beard was moved back as
17'? A. That was later on.

18 Q. That is your statement? A. Yes.

19 Q. After you have made your statement you have
20 your aide memoir and you don't give that detail?

21 A. Yes.

22 Q. So, it wasn't going to help your memory?

23 A. No, but I had made the statement. The statement
24 the notebook was just the aide memoir. It is only a
25 rough idea of what happened.

26 Q. Then on the 3rd May did you spend some time with
27 Detective Sergeant Lawther? A. Yes.

28 Q. Did that result in a four and a half page statement
29 of what happened? A. Yes.

30

1 B.C.27

2 Q. Now, why were you making that statement?

3 A. That wasn't a statement.

4 Q. What was it? A. It was questions that
5 he was putting to me about the thing from my own
6 statement. It wasn't actually a statement. I never signed
7 it.

8 Q. O.K., then was it a de-briefing?

9 A. Yes.

10 Q. Anywhere in that four and a half page document
11 do you make any mention of a man with a goat beard?

12 A. I can't recollect.

13 Q. I suggest that there is not a word of it, not a
14 mention?

15 **MR KERR:** With respect, in fairness to the witness he
16 has said that this was questions which he was being asked
17 by somebody else and he was not asked to sign the
18 statement, so I think that My Friend would need to establish
19 that it was a previous inconsistent statement before he
20 could tax the witness with it.

21 **THE JUDGE:** Obviously that is something which you
22 must bear in mind.

23 **MR ORR:** Do you, whenever you are answering
24 questions to Detective Sergeant Lawther, not mention the
25 man with the goat beard? A. If he asked me
26 particular questions in relation to that it is up to him what
27 he wrote down. I didn't sign anything, so I don't know
28 what he was writing. If he asked me a particular question
29 in relation to it I am sure he would have written it down.
30

1 B.C.28

2 Q. And you are interviewed then under caution by
3 the Detective Chief Superintendent and Detective inspector
4 Irwin? A. Yes.

5 Q. And in relation to that do you mention a man with
6 the goat beard in those interviews? A. Was I
7 asked any questions about him?

8 Q. Do you recollect whether you mentioned ...?
9 A. No, I can't recollect.

10 Q. Then subsequent to those interviews you are
11 invited in November 1997 to make a further statement?
12 A. Correct.

13 Q. Then subsequently you make your deposition at
14 the Preliminary Inquiry? A. Correct.

15 Q. Or, the P.I.? A. Yes.

16 Q. Insofar as that P.I. is concerned, you are then
17 moving in terms of age and moving in terms of dress, and
18 you are adding at that stage the height?
19 A. Yes.

20 Q. The height may have been mentioned for the first
21 time. Then when you gave evidence before His Lordship
22 yesterday you then add yet another matter where you had
23 been mentioning in the earlier stages a leather waistcoat.
24 It is then "I think it was a waistcoat.", and yesterday "It was
25 actually a waistcoat with cloth sleeves."?
26 A. Yes.

27 Q. That is a contradiction because a waistcoat does
28 not have sleeves. Is that not right? A. That is
29 correct.
30

1 B.C.29

2 Q. Tell me, did you at any stage see a man with a
3 Rangers red, white and blue scarf? A. Yes.

4 Q. Kicking a man who was prone on the ground?

5 A. No.

6 Q. Did you see that person being arrested and taken
7 to the police Land Rover and then being released after
8 some minutes? A. I was with Constable

9 **A** I went to assist her at one stage. She was further
10 up the town more or less on the other side of the crowd
11 towards the church.

12 **THE JUDGE:** The question was, was this man taken to
13 the Land Rover and then released? A. I don't
14 know. He was taken back towards the Land Rover. I took
15 nothing more to do with that at that stage.

16 **MR ORR:** You see, Mr Prunty gave evidence of seeing a
17 man in a Rangers scarf who was one of a crowd of people
18 who were kicking Robert Hamill? A. I didn't see
19 that.

20 Q. You didn't see that either? A. No.

21 Q. He says that he then saw that person taken off by
22 police. He then saw that man in the back of the Land Rover
23 and then he was amazed some time later to see that man
24 back out on the street. Do you know anything about that?

25 A. I know nothing about that at all.

26 Q. In terms of Constable Atkinson, he sees two
27 people on the ground. The minute he returns turns
28 round after leaving the first youth that he saved in the
29 mouth of Woodhouse Street? A. Yes.

30

1 Bc30

2 Q. That is not consistent with the account which
3 you are giving to us, sure its not? A. No.

4 Q. Because you say that you were taking this fellow
5 back that was punching to the rear of the Land rover and
6 there was still nobody on the ground? A. That is
7 what I recollect.

8 Q. Is it possible, because of the numbers, that the
9 four of you did sit in the Land Rover until the main attack
10 was over? A. No.

11 Q. And that was why there was the viciousness of the
12 two people who were complaining? A. No.
13 We did everything that we possibly could.

14 Q. To get back to the defendant for a moment, can I
15 ask you what foot he used to 'kick at', if we accept your
16 statement; to 'kick' Mr Hamill, if we accept your aide
17 memoir? A. It was 'kicked at'. There was no
18 movement from Mr Hamill. I can't say that he kicked him.
19 I said he kicked at him.

20 Q. Which foot? A. I don't know. It was
21 possibly his right foot. I couldn't honestly say.

22 Q. Can you say which side of Mr Hamill's body he
23 kicked at? A. From his right hand side.

24 Q. From Mr Hamill's right hand side?

25 A. From Mr Hamill's right hand side.

26 Q. Was he lying on his back? A. Yes.

27 Q. On what part of Mr Hamill's body was he at?

28 A. He would have been standing at his
29 head/shoulders region.

30

1 B.C.31

2 Q. If you saw that movement presumably you can tell
3 us, apart from the waistcoat or the waistcoat with cloth
4 sleeves, you can tell us what clothing the accused, the goat
5 bearded man, was wearing below the waist?

6 A. No, I can't.

7 Q. Can you tell us what sort of footwear he had on?

8 A. No.

9 Q. Yet that was the area that you were concentrating
10 on? A. No. I saw his face. I couldn't say what
11 size his shoes were or what colour his shoes were or his
12 trousers.

13 Q. In relation to that, when you gave evidence at the
14 Magistrates' Court did you indicate that you had or
15 observed the person with the goat beard in the vicinity of
16 Mr Hamill for a very short period of time, perhaps a mere
17 second or two? A. A few seconds.

18 Q. Did you answer when you were asked "Did you
19 have him in sight for a short period of time, perhaps a mere
20 second or two?", did you answer "That is correct."?

21 A. If its in the deposition.

22 Q. You have told us that there were numerous fights
23 going on and did you also at the time of giving your
24 deposition describe the situation as 'chaotic'?

25 A. Yes.

26 Q. That would fit the over all picture?

27 A. That is the over all picture with fights going on
28 across the street.

29

30

1 B.C.32

2 Q. It wasn't really a case of two comparable rival
3 groups. It was a situation of a small group who were under
4 attack by a large group? A. Yes.

5 Q. That meant people were backwards and forwards
6 and to-ing and fro-ing? A. Quite possibly.

7 Q. It wouldn't be like sitting in this court today when
8 everything is clear? A. Correct.

9 Q. And you can see clearly in front of you?

10 A. Correct.

11 Q. Am I right in saying that the only two people that
12 you gave a description of, of any sort, are the accused and
13 the man who spoke to you as he was moving into
14 Woodhouse Street to warn you of the group coming down?

15 A. No.

16 Q. Those are the only two? A. No.

17 Q. Who else do you describe? A. The
18 person that I removed from fights that I took down
19 Woodhouse Street.

20 Q. You didn't describe the man in front?

21 A. Yes, I did. He was in his thirties with a green/blue
22 coloured shirt on.

23 Q. Those were the only three people you identify in
24 the whole case? A. There was other ones
25 there. There was Stacey Bridgett. There was young Hill.
26 There was Robinson.

27 Q. No further questions.

28

29

30

1 B.C.33

2 **RE-EXAMINATION BY MR KERR:**

3 **MR KERR:** Dealing with that point, did you, in fact,
4 identify and pick out in your statement other persons not
5 before the court? A. Yes, I did.

6 Q. And describe them and say who they were?

7 A. Yes.

8 Q. Thank you.