*Thursday, July 20, 2017*

 **The murder of Bobby Moffett and the “Peace Process”**

Bobby Moffett was shot dead in broad daylight at the junction of Conway Street and the Shankill Road on 28th May 2010.

Two masked gunmen, wearing fluorescent jackets , carried out the murder. They used sawn off shotguns.

The International Monitoring Commission said:

*The IMC has found that the UVF leadership decided Moffett should be shot to eliminate the threat he posed to individual members of the organisation and to send a wider message to the loyalist community that the UVF would not tolerate its authority being flouted.*

*Although the IMC has concluded that the murder of Moffett was extremely serious, it has decided not to recommend that the Northern Secretary Owen Patterson should “recategorise” the UVF as an organisation not on ceasefire.*

*We are aware of the view that the murder was the result of particular
circumstances and will not be repeated*

*Our conclusion is that, extremely serious though this murder clearly is, we are not in a position to recommend at this stage that the Secretary of State reconsiders the specification. We will keep the matter under close review and will return to it in our next full report on paramilitary activity in some two months time. As previously , we will not hesitate to recommend that the UVF should be re-specified if we judge this to be the correct course of action in accordance with the legislation.*

The Slugger O’Toole website commented:

*The distinct impression is left that the IMC are happy to pretend the UVF are on ceasefire provided they restrict their criminality to murdering working class unionists, drug dealing, racketeering, prostitution and the like. It looks suspiciously as though the problems faced by working class unionist communities do not matter to the IMC. This should hardly be surprising: there have been multiple previous murders by the “on ceasefire” loyalist terrorists.*

So , your brother is shot in broad daylight on the Shankill Road and the “dogs in the street” know who ordered it and probably who carried it out.

In a civilized society, the police would be all over this case.

What did they do?

A dozen UVF members were arrested. Nobody was charged with his murder. The PSNI has said , in 2014 that the inquiry remained open but that there were no active lines of inquiry being pursued. We have all heard that before.

Irene Owens, sister of Bobby, believes that her brother was killed by those who were state agents or who had protection from the state.

Ms Owens had hopes that the Police Ombudsman and the Coroner would help her get justice for the murder of her brother.

In a normal society, the combination of the police, a supervising body and the coroner might be capable of delivering justice. But not in Northern Ireland.

The police investigation is at a standstill. Dear Reader, you may speculate as to why that is.

The Police Ombudsman is still investigating, seven years after the murder.

What does he have to say?

In a letter dated 6th November 2014 he indicated that the allegations made by Ms Owens “*were the subject of an extremely complicated and sensitive investigation spanning many years*” He anticipated that the investigation would take many years to conclude.

It is worth bearing in mind, Dear Reader , that the genesis of this killing was the visit by Moffet to Stockman’s house and the invitation that Stockman should come outside. He declined. Whereupon it is said that Moffet damaged his car. That seems like an every day story of city folk, hardly deserving the description “complicated and sensitive”. Stockman ordered Moffet’s killing.

Irene Owens asked the Coroner to obtain facts from the IMC , relating to the murder of her brother. The Coroner wrote to the IMC. They replied:

*“Our clients have carefully considered your request and do not consider that it is appropriate in the circumstances to waive any of the said immunities or privileges. This decision is based upon our client’s policy that, to enable them to carry out their legal functions, the confidences they receive must be maintained.”*

The IMC ceased operations on 31st March 2011 and its archive passed to the joint control of the UK and Irish governments.

Ms Owens solicitor wrote to the Secretary of State for Northern Ireland [“SOS”] asking for release to the Coroner of the IMC material relevant to her brother’s murder. She refused, in the following terms:

*“... Article 4 of the Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 confers inviolability on the IMC archive until such time as Her Majesty’s Government with the agreement of the Government of Ireland waive that inviolability .*

*Following consultation with the Government of Ireland I can confirm that it is not the case that both governments agree to waive the inviolability of all or part of the archive, whether for this particular purpose or at all.”*

*The appellant’s solicitor sought full reasons for the decision and details of the response of each of the Governments to the request. The respondent replied in a letter dated 31 May 2013, again referring to the inviolability accorded to the archives and stating that both governments agreed that inviolability should not be waived and therefore the position had not changed.*

The issue became a tug of war between the right that his sister have an effective investigation and the guarantee of confidentiality, incorporated in the IMC legislation.

The Court of Appeal said this, in their judgment of 27th June 2017:

*[30] The parties to the Belfast/Good Friday Agreement reaffirmed their total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues, and their opposition to any use or threat of force by others for any political purpose, whether in regard to this agreement or otherwise. It was necessary, therefore, to find some confidence building measure to ensure that those then participating in the democratic process remained so committed. The IMC was a mechanism by which the state delivered its positive obligation to identify those involved in the commission of terrorist offences while at the same time reassuring the public that those involved in government had committed to exclusively peaceful means.*

*[32] We accept, therefore, that there was a need to balance the obligation of confidentiality arising from the establishment of the IMC as a means of protecting the public and the state and the obligation of disclosure flowing from the investigative obligation in Article 2. We also accept that it was material to take into account the effect of disclosure on future arrangements which may become necessary to reinforce the commitment to peaceful and democratic means in this jurisdiction.*

*[33] The submission to the Secretary of State accepted that she had a discretion to access the archive and in appropriate circumstances to release information from it. The form in which that might have been done would depend upon its content. The decision not to examine the archive at this stage reflected the fact that the inquest was necessarily at an early stage given the extent of the Ombudsman’s investigation. The outcome of that investigation may have an impact upon the nature of the issues to be examined at the inquest and the extent to which the archive may be a material source of assistance. In our view the Secretary of State’s response can properly be regarded as a postponement of a decision to examine the archive until further relevant material becomes available. We are satisfied from the terms of the submission dated 27 November 2013 that the reason for the non-disclosure was the need to respect the confidentiality of the archive. Having regard to the importance of the confidentiality of the archive, which was acknowledged by the appellant, we do not consider that the approach of the respondent was the result of misdirection or irrational. We further do not accept that it gave rise to a breach of Article 2 of the Convention. We acknowledge, however, that the decision may need to be revisited when the Ombudsman’s report becomes available.*

***Conclusion***

*[34] For the reasons given we dismiss the appeal.*

So the position is that there is a body, the IMC, which is likely to have information relating to the identity of those who killed your brother. The Coroner thinks that he can’t get this information from the state [that is what he has been advised by counsel]. So you go to court to force its disclosure under Human Rights legislation. The Court of Appeal tells you that, no matter what your [and your dead brother’s] Human Rights may be, the “Peace Process” is , at present, more important.

The case demonstrates, again, the confusing mix of agencies. The PSNI has an obligation to investigate the killing. Their investigation seems to have stalled. The family has complained to the Police Ombudsman, whom we all know to be starved of funds by the Department of Justice. The Coroner has to wait his turn once the PONI has reported. The SOS sits tight behind them all.

So , Dear Reader, *cui bono?*

Once again, the State. Mr Moffet’s murder is seen as an unfortunate event. “House keeping” perhaps. It suggests again that there is a hierarchy of victims.

Who determines the hierarchy? Why, the state of course. It did so during the worst of the Troubles by allowing the IRA and Loyalist paramilitaries to kill by agreement. It permitted its agents to participate in crimes. The State continues to categorise citizens by their importance to the State. Bobby Moffett , a working class man from the Shankill , perhaps with a past, is judged by the Secretary of State and the Spooks as unimportant , for the Greater Good. Who will miss him, except a few inconsequential people on the Shankill?

Once that is the mind set of the State [and it is] nobody is safe and the State has given up its legitimacy.

We should all be shocked and forewarned by the murder of Bobby Moffett.

I suspect that few will, till the same thing arrives at their door.