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BY FAX - HARD COPY TO FOLLOW

The Honourable Dermott Gleeson SC
Office of the Attorney General
Government Buildings
DUBLIN 2

20 September 1996

[signed DAL]

ALLIANCE PARTY REPRESENTATIONS

As requested during our telephone conversation this morning, I have now worked-up the Skeleton Judgment into a fuller text of what might become the Governments' Conclusions for delivery next week.

I have, as you suggested, adhered to the format of the Conclusions issued on 11 September in respect of the DUP case against the PUP/UDP. This sets a very useful precedent.

In addressing the Alliance Party's allegations, and the responses to this, I have adopted a minimalist approach and have not sought to paraphrase or amplify matters already covered in the documentation (which will be appended to the 'judgment') or in the Plenary Session of 18 September.

I have slightly reordered some of the material in the Skeleton Judgment in relation to the Drumcree allegations. I have, at your suggestion, dealt with the alleged breach of principle(a) before the allegation in relation principle (d). I have also, at your suggestion, deleted the sentence condemning the events at Drumcree - you felt that we might be better to avoid a debate about the 'lexicon' of condemnation.

Interestingly, the Alliance Party's written submission in relation to Drumcree is confined to an assertion that there was a breach of principle (a). It was only during the Plenary Session on 18 September that this was expanded to cover principle (d). I think we both tended to the view that the oral presentation of an allegation should be confined to the matters asserted in the 'pleadings' and that a party should not be allowed to use this device to introduce a new allegation. However, I have retained the material relating to the alleged breach of principle (d) in the interests of completeness given that it relates to the same factual circumstances as the allegation in respect of principle (a). I think this may be the safer course to adopt in the instant case.

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I have again sent a copy of the attached material to the Secretariat. However, we agreed that in the interests of expedition I should continue to work directly to you as well.

I hope that I have provided you with sufficient material to take this matter forward. Should, however, you require anything further at this stage, please do not hesitate to let me know.

Mr Stephens
Mr Whyteall (DAL)
Mr Jagelman

[signed DAL]

FOR ENCLOSURE PLEASE SEE MY NOTE TO PS/SECRETARY OF STATE OF
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PS/Secretary of State (B&L)	B
PS/Michael Ancram (B&L)	B
PS/PUS (B&L)	B
PS/Sir David Fell	B
Mr Thomas (o/r)	B
Mr Leach (B&L)	B
Mr Watkins	B
Mr Bell	B
Mr Hill (B&L)	B
Mr Maccabe	B
Mr Stephens	B
Mr Whysall (B&L)	B
Mr Jagelman	

FOR ENCLOSURE PLEASE SEE MY NOTE TO PS/SECRETARY OF STATE OF TODAY'S DATE

2. I discussed the Skeleton 'Judgment' with the Irish Attorney General this morning, and he asked me to work-up the attached text for further consideration.
3. The Attorney told me that he was content with the analytical approach set out in the Skeleton Judgment. He could not, he said, immediately think of any other approach that would be legally sound. He would, however, wish to discuss the draft with Ministerial colleagues.
4. On one point of detail, the Attorney agreed that we should acknowledge that the events at Drumree amounted to the use of force or the threatened use of force. However, he suggested that he would prefer to omit any condemnation of those events (in order to avoid introducing controversy over what he termed the 'lexicon' of condemnation). It will be interesting to see whether his colleagues agree with this approach.
5. The Attorney thinks that we should continue to aim to have the judgment ready for delivery on Monday, but recognises that this may not be practicable if matters of substance remain to be discussed between the Governments.
6. The Attorney will let us have his further thoughts on the draft as soon as possible.
7. In the meantime, I would be grateful if Mr Bell could arrange to pass the attached draft to the Irish through official channels.

[signed B&L]

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