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BY FAX - HARD COPY TO FOLLOW

The Honorable Dermott Gleeson SC
Office of the Attorney General
Government Buildings
Dublin 2

19 September 1996

Dear Attorney,

ALLIANCE PARTY REPRESENTATIONS - SKELETON JUDGMENT

The Secretary of State for Northern Ireland has asked me to forward to you the attached skeleton of a possible 'judgment' in relation to the representations made by the Alliance Party concerning alleged breaches of the Mitchell principles by the UUP, DUP, and the Loyalist Parties.

The attached draft sets out a possible approach to what would become the Governments' formal Conclusions in this case. However, although not presented particularly well by the Alliance Party or the respondents, the core complaints, particularly in relation to Drumcree, are not without difficulty. Therefore, the Secretary of State would very much welcome your initial thoughts on the analytical approach adopted in the attached draft.

I have also this afternoon arranged for a copy of the draft skeleton judgment to be forwarded through the Maryfield Secretariat. However, the Secretary of State asked that I contact you directly as well in the interests of expedition.

If this would be helpful, I would be happy to discuss the attached draft with you at your convenience. Alternatively, you may prefer to discuss it with the Secretary of State.

I have alerted Martha Pope that it is problematic whether the Governments' Conclusions in this case will be ready to be delivered on Monday morning as originally envisaged.

Yours sincerely,

David A. Lavery

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[Revised Draft: 19/9/96]

DRAFT SKELETON DETERMINATION OF ALLIANCE PARTY REPRESENTATIONS

I. REPRESENTATION RELATING TO DRUMCREE

1. The Governments acknowledge that aspects of the events surrounding Drumcree constituted either the use of force or the threatened use of force. There can be no excuse for them; they were reprehensible.
2. In order to establish that those events constitute a breach of principle (d) it must be shown that they were intended to "influence the course or the outcome of all-party negotiations".
3. It has not been established that those events were so intended, and therefore in any event it has not been established that there has been a demonstrable dishonouring of principle (d) by any of the named parties.
4. In order to establish whether there has been a breach of principle (a) it is again necessary to have regard to the intentions of the relevant participants at Drumcree.
5. In particular, it is incumbent on those asserting that there has been a breach by the named parties of principle (a) to show that it was the intention of their participant leaders to act otherwise than in accordance with their publicly stated commitment to democratic and exclusively peaceful means of resolving political issues.
6. It has not been established that any actions of the Orange Order at Drumcree were carried out under the authority or direction of the UUP or the DUP.
7. It has not been established that those participant leaders intended to use force or threaten to use force or to pursue their objectives by other than democratic and exclusively peaceful means.

8. Therefore it has not been established that there has been a demonstrable dishonouring of principle (a) by any of the named parties.
9. The UUP and DUP have asserted, and continue to assert, their total and absolute commitment to the principles of democracy and non-violence set out at paragraph 20 of the Report of the International Body.
10. Therefore no further action is appropriate.

II. REPRESENTATION RELATING TO THE CLMC THREAT

1. The substance of this representation is identical to a representation previously made by the DUP in respect of the PUP and UDP.
2. The Governments consider therefore that the matter to which the current representation relates has already been addressed in the Conclusions issued on 11 September 1996.
3. The Governments do not consider that any further action is appropriate in respect of the current representation.
4. No evidence has been presented to substantiate the accusation that the Reverend McCrea is supportive of the "policies and actions" with which Mr Wright is allegedly associated.
5. The Reverend McCrea's actions have not been shown to be inconsistent with his declared opposition to the threat issued by the CLMC against Mr Wright.
6. Therefore it has in any event not been established that there has been a demonstrable dishonouring of principle (a) or principle (d) on the part of the DUP in respect of the matters complained of.

[12/3/1996]

III. REPRESENTATION RELATING TO THE DUP AND BILLY WRIGHT

1. This representation rests on the Reverend William McCrea MP's participation in a public rally in Portadown on 4 September 1996 in support of Billy Wright.
2. Mr Wright was the subject of a death threat issued by the CLMC.
3. Mr McCrea has asserted that his presence and actions were intended to express support for the right of anyone not to be threatened with murder.
4. No evidence has been presented to substantiate the accusation that the Reverend McCrea is supportive of the "policies and actions" with which Mr Wright is allegedly associated.
5. The Reverend McCrea's actions have not been shown to be inconsistent with his declared opposition to the threat issued by the CLMC against Mr Wright.
6. Therefore it has in any event not been established that there has been a demonstrable dishonouring of principle (a) or principle (d) on the part of the DUP in respect of the matters complained of.

[19/9/1996]