

E.R.

PS/Secretary of State (B) - M

P.A.
Homosexual Offences
Ende file



cc PS/S of S (L)
PS/Lord Gowrie (L&B) - M
PS/PUS (L&B) - M
PS/Mr Bell - M
Mr Marshall
Mr Blelloch - M
Mr Angel
Mr Wyatt - M
Mr Gilliland - M
Mr Smartt - M
Mr Harrington
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Mr Beattie - M

DUDGEON CASE: NI LAW ON HOMOSEXUALITY

The judgment of the European Court of Human Rights on the Dudgeon Case was delivered in Strasbourg this morning. We will not have the full text until Monday. However I understand that, as expected, HMG was found to be in breach of Article 8 of the European Convention on Human Rights (the right to privacy) by a majority of 15 to 4. It was judged unnecessary to examine whether or not there was a breach of Article 14 (discrimination) by a majority of 14 to 5.

This finding is very much as we expected. The tone of the judgment was, I understand, considerably more sympathetic than it might have been. The Court seem to have taken on board the arguments that we advanced over the difficulties of dealing with a distinctive moral society in Northern Ireland and indicated in the judgment that HMG acted in good faith. Nevertheless the fact remains that prohibition of homosexual activities between adults in private cannot be reconciled with the Convention.

The judgment also states that the Court is not yet ready to come to a view on reparation for the complainant. Mr Dudgeon has claimed £15,000 on two counts of distress and £5000 for legal fees. The Commission has been asked to submit written evidence on this matter within two months and will approach us to discover whether a mutually acceptable settlement can be reached.

Officials will study the full text of the judgment as soon as it is available in London and will consult with legal advisers on the question of compensation for Dudgeon. Advice will then be submitted to the Secretary of State on how the Government might respond to the judgment.

There has already been a degree of press interest. However Press Offices in both London and Belfast are sticking to the line that the Government will have to consider the judgment carefully and will make a statement in due course.

D. Chesterton
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Signature

22 October 1981