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E.R.

THE BLACK APPEAL

Line to Take

- I understand that a copy of Lord Lowry's judgement has been passed to you via the Secretariat.
- Clearly it is not for me to comment on the judgement. But as I see it Lord Lowry has not come down against former accomplice evidence in principle. Nor has he introduced any new standards of corroboration.
- We are studying the implications carefully.

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Background Note

The Lord Chief Justice delivered his judgement on the appeals of 22 of those who were convicted in the Black trial on 17 July. The Irish have been given a copy. The judgement is long and detailed and officials are studying it carefully.

18 of the 22 convictions were overturned, the Court of Appeal finding that the trial judge (Kelly J) had overestimated Black's honesty in this particular case. But the Court of Appeal did not come down against the principle of former accomplice evidence, nor did it seek to introduce new standards of corroboration; our general position - that it is for the courts to assess the credibility of such evidence in particular cases - thus remains broadly unaffected. Indeed, the judgement provides a fresh instance of the NI judiciary's critical impartiality.

Lord Lowry did draw attention to the problems caused by the joining in one indictment of so many defendants and charges which were not directly related. This is a point in which the Irish have in the past expressed some interest. But he went on to say that defence counsel did not object at the time and that indeed the practice could work to the advantage of the defence.

The Secretary of State is advised not to be drawn into a detailed discussion of the judgement but to stick to the general lines provided. The issue of administration of justice generally is for the Legal Affairs working groups.

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