



TO: Secretary

FROM: Mr N Hamilton

cc. PS/Mr Needham
PS/PUS
PS/Mr Bloomfield
Mr Stephens
Mr Innes
Mr Chesterton
Mr Spence
Mr McConnell

Mr Phipps
Mr Sullivan *24/1*
to see & return
MM
23/1

BELFAST CITY COUNCIL - JUDICIAL REVIEW

1. Following my minute to you of 13 January detailing current developments within District Councils and Mr Needham's note to the Secretary of State of 15 January, there has been a further significant development in respect of Belfast Council.
2. Mr David Cook (as a ratepayer) supported by 3 Alliance Councillors (Mr Glendinning, Mr Thompson, Mr Campbell) have been given leave for a Judicial Review of the actions of Belfast Council at its meetings on 2 and 10 January 1986. This Review will take place in the High Court on Tuesday 28 January. I have obtained a copy of the Application in which you will see that, inter alia, the applicants are seeking action to:-
 - (a) Quash the proceedings of the Council meetings on those dates;
 - (b) require the Council to resume normal Council meetings, including the striking of a rate by 15 February; and
 - (c) restrain the Council from exhibiting the "Belfast Says No" Banner.
3. This could be significant in its implications for the current policy of Unionist controlled Councils to adjourn/suspend meetings and also in determining the tactic to be adopted by those Councils towards striking a District Rate.
4. We will keep a close eye on developments.

N Hamilton

N HAMILTON
21 January 1986

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (CROWN SIDE)

IN THE MATTER of an Application by David Somerville Cook, Will Glendinning, Peter Thompson and Thomas Michael Campbell for leave to apply for judicial review and for judicial review.

IN THE MATTER of the Local Government Act (Northern Ireland) 1972 as amended by the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.

IN THE MATTER of certain proceedings at Meetings of Belfast City Council on 2nd January 1986 and 10th January 1986.

S T A T E M E N T

Pursuant to the Rules of the Supreme Court (Northern Ireland) 1980, Order 53, Rule 2 (2).

1. The Applicants are David Somerville Cook of 10 Donegall Square South, Belfast, Will Glendinning of 2 Prince Edward Park, Belfast, Peter Thompson of 62 Knock Road, Belfast and Thomas Michael Campbell of 41 Arthur Street, Belfast.

2. The relief sought is:-

A. Leave to apply for judicial review of the proceedings of the Special meetings of Belfast City Council and of the resolutions passed thereat namely:-

(i) On the 2nd January 1986 as follows:-

"This Council, in keeping with its decision of 2nd December 1985, with regard to the Anglo-Irish Agreement, resolves to erect a banner spanning the main pillars at the front of the City Hall carrying the words "Belfast Says No", and further agrees not to hold any Committee meetings of the Council in January and the Council Meeting on 3rd February 1986, and in the meantime delegates the Council's functions to the Town Clerk"

(ii) On the 10th January 1986 as follows:-

"That in pursuance of the Council's decision of 2nd January 1986 the Town Clerk be instructed to arrange for the erection forthwith of the banner carrying the words "Belfast Says No", pending the decision by the Department of the Environment on the application for its consent for the erection of such banner under the Control of Advertisements Order (N.I.) 1973 (SIC)."

- B. A Declaration that the Resolutions passed and adopted at the said Special meetings of the Council were unlawful and ultra vires.
- C. An Order of Certiorari to remove into this Honourable Court and quash the said proceedings and the said resolutions.
- D. An Order of Mandamus or in the alternative an injunction to compel the said Council to hold such meetings as be necessary for the transaction of its general business.
- E. An Order of Mandamus or in the alternative an injunction requiring the Council to hold such Committee Meetings as may be necessary for the exercise of such functions of Council as have been lawfully and properly delegated to any Committee of the Council.
- F. A Declaration that the purported adjournment of the Special Meeting of the Belfast City Council called for on 10th January 1986 was unlawful and ultra vires.
- G. An Order of Mandamus or in the alternative an injunction requiring the Council to deal with the business in respect of which the said Special Meeting of 10th January 1986 was requisitioned as soon as is reasonably practical.
- H. An Order of Mandamus or in the alternative an injunction requiring the Council to hold a meeting of the Council to make the rate on or before 15th of February 1986.
- I. An Order of Prohibition or in the alternative an injunction to restrain the Council from continuing to exhibit the banner referred to in the said resolutions.
- J. An abridgement of time within which the Notice of

Motion must be served as this matter is urgent and requires to be heard on or before 1st February 1986.

3. The grounds on which the said relief is sought are:-

- A. The proceedings of the Council on 2nd January 1986 were conducted in an unlawful manner and contrary to the provisions of the Local Government Act (Northern Ireland) 1972 as amended by the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.
- B. The subject matter of the said resolution of 2nd January 1986 and the steps which it directed to be taken were not within the scope of any statutory function of the Council.
- C. The Council had no power to pass any such resolutions.
- D. If the Council had power to pass such resolutions or any part thereof then the real, true and dominant purpose of the resolutions was to advance a campaign of opposition to the Agreement concluded on 15th November 1985 between Her Majesty's Government and the Government of the Republic of Ireland, and the resolutions are unlawful and ultra vires.
- E. The purported delegation of the functions of the Council to the Town Clerk was not an ordinary exercise of the Council's powers for the purpose of enabling its functions to be performed but was a step taken in furtherance of the aforementioned campaign and is accordingly unlawful and ultra vires.
- F. The consent of the Department of the Environment for Northern Ireland as required by the Planning (Control of Advertisements) Regulations (Northern Ireland) 1973 was not obtained prior to the passing of the said Resolutions or the erection of the banner referred to therein and the said resolutions and the erection of the said banner were accordingly

unlawful and ultra vires.

- G. The proceedings of the Council on 10th January 1986 were conducted in an unlawful manner and contrary to the provisions of the Local Government Act (Northern Ireland) 1972 as amended by the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.
- H. The Council failed without lawful reason to deal with the business which was properly before it.
- I. The failure to deal with the said business and the adjournment of the said meeting were for the real, true and dominant purpose of advancing the aforementioned campaign.
- J. The resolution purported to be passed at the said meeting of 10th January was unlawful and ultra vires because Notice of that Business had not been given in accordance with paragraph 2(3) (a) of Schedule 2 of the Local Government Act (Northern Ireland) 1972.
- K. The said resolution was unlawful also for the reasons set out in paragraph F above.

Dated this 15th day of January 1986

Signed.....

Sheldon & Stewart
Solicitors for the Applicants
10 Donegall Square South
BELFAST BT1 5JD.