

RECEIVED
 INITS..... *Hobson*
 22 DEC 1997
 OFFICE OF DIRECTOR
 OF PUBLIC PROSECUTIONS

Mr Kitson

D.P.P.

Robert Hamill decd.

Further Opinion.

Direction.

- ① For information.
- ② Mr Kerr's opinion is presentation of Hobson for murder.
- ③ I am of the same view.
- ④ I intend to have Mr Davison direct accordingly.

prepare paper for committee proceedings

*RTH
22/12/97*

*notes
and
22.12.97*

1. In my previous opinion in this matter I expressed the view that the exact charges to be directed as against Hobson may depend on clarification of the pathology evidence coupled with elaboration of Con. Neill's evidence. I have now been given both.

2. Professor Crane's report concludes that "Death was a result of the head injuries which he had sustained." After opining that the actual injuries received appeared individually trivial states "Detailed examination of the brain however and in particular its microscopic examination revealed widespread damage within its substance of a type known as diffuse axonal injury. This condition most frequently encountered in acceleration/deceleration injury as a result of a road traffic accident is also well recognised as occurring as the result of repeated blows to the head such as by punching or kicking and this would seem the most likely mechanism of injury in this case."

This finding is of significance as it means that all participants in kicking the deceased when he was attacked are likely medically to have contributed to the death as opposed to the evidence suggesting that one particular blow or kick which cannot be identified being the sole cause.

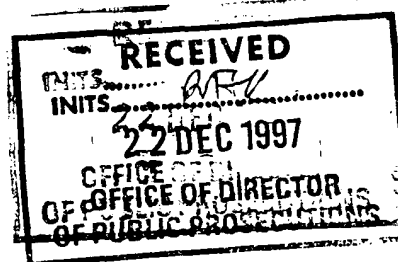
3. Con Neill has made a clarifying statement. In it he states that he saw Hobson kick at

Hamill he was in the region of his head shoulders. He is not certain whether he made contact or not.

4. I have carefully considered the evidence as it now stands. The pathology evidence is in my view of great significance. Mr Hamill died as a result of repeated blows during an attack on him when he was on the ground. Participants in that attack are liable for his death as participants in a joint enterprise. In view of the pathology evidence I do not feel the exact analysis of roles referred to in my previous opinion is necessary. The evidence of Con. Neill places Hobson well into that joint enterprise as an active participant. Accordingly I must advise that he be prosecuted for murder.
5. As usual I am available to discuss my opinion if required to do so.

Gordon W Kerr

Gordon W Kerr Q.C.



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