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71. cc. Secretary Gallagher
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Mr. Gibbons
Rec

17 October 1997

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To: HQ
For: Colm O Floinn

From: Belfast
From: Bill Nolan

Subject: Statement by the Secretary of State on New Arrangements for Parades

Please see the attached.

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EMBARGOED UNTIL 12 NOON 17 OCTOBER 1997

NEW ARRANGEMENTS FOR PARADES

STATEMENT BY THE SECRETARY OF STATE

I want to talk today about the Government's policy on parades.

The problems we have experienced in recent years are not new. There have been disputes over contested parades since at least the nineteenth century, and not just in Northern Ireland. Examples could be cited in Great Britain and even in the United States.

But there is no doubt that in the past few years tensions over parades have been as high as we have ever seen. This year, after the Labour Government came into office, I believe that both Ministers and officials worked as hard as we could have done to help bring about local accommodations and avoid imposed solutions. We were aided in this by many people of good will who worked quietly to reach agreement. I am sorry that all our efforts did not always bear fruit. Where there is intransigence on both sides, accommodation cannot be achieved. But as many events last summer showed, where there is understanding and common-sense, there can be success without any sacrifice of principle.

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The issue of parades continues to expose starkly the underlying divisions in Northern Ireland society. So tackling it could make an enormous contribution to the search for a lasting settlement which is being pursued in the Talks process.

We are convinced the way forward is a policy based both on **rights**, and on the **responsibilities** which go with them.

Rights - the right to free assembly, which includes the right to march and the right to protest against marches, peacefully and within the law.

Responsibilities - in a democratic society we all have the responsibility to express our rights in a way which respects the rights and freedom of others.

This is our approach, and it is also the approach recommended in the North Report. We have already stated our commitment to legislate to implement these recommendations. We have therefore introduced in the House of Lords and are publishing today a Bill to establish new structures. Our objective is to have these in place in time for next year's marching season.

While we are steering the Parades Bill through Parliament, we will also be pressing ahead with the **Talks process**. I hope things can be achieved there which will transform the atmosphere for the next marching season.

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But we can't simply wait for political progress. What we need on the parades issue, as elsewhere, are policies capable of winning the allegiance of everyone, because they are based on clear principles, and because they recognise the rights and aspirations of all.

After the events at Drumcree in 1996, the then government commissioned Dr Peter North and two colleagues to produce an independent report on the parades issue. We welcomed the commissioning of this report, and participated in the major consultation process Dr North and his colleagues launched.

When the Report was published, we welcomed its findings and called for immediate implementation. We only regret the previous government was able neither to endorse it in full, nor suggest a workable alternative.

The North Report revealed major problems with the way public order legislation works in Northern Ireland. In particular, it judged that the current legislation provided an incentive for those who threaten to act outside the law, through the premium it placed on minimising public disorder and the lack of explicit opportunity for the views of local residents to be taken into account unless disorder was threatened.

That was a serious and worrying conclusion. In the particular Northern Ireland context, legislation should promote public order and provide a framework for the accommodation of competing interests, not leave the way open for those who threaten disorder to get their way.

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The North Report recommends some radical and far-reaching changes. The most obvious is the setting-up of a new body, the Parades Commission. This body should for the first time be entrusted with the task of working to achieve agreement on contentious parades, and should in particular take over from the police the power to issue determinations when such agreement cannot be reached.

But perhaps even more important is the recommendation that the Commission in making these determinations should have regard not just to the public order situation, but to a new factor, that of the 'wider impact of the parade on relationships within the community'.

Under North's proposals, the Parades Commission would be able to balance all the different considerations. The internationally recognised right to march. The legitimate expectation of local residents not to feel intimidated in their own neighbourhoods. The danger of serious public disorder.

The Parades Commission has already started its work, under the mandate given to it by the previous government. I believe it has already made an important contribution. Its chairman, Alistair Graham, has demonstrated qualities of leadership and diplomacy which augur well for the period ahead. I am very grateful to all the members of the Commission for the commitment and dedication they have shown.

The importance of achieving a local accommodation is stressed throughout the North Report. Indeed, it could hardly be stressed too highly. No decision making process can

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match an amicable agreement on the ground. Whatever improvements we can come up with in the decision making process, the need for the new structures to come into play at all is a last resort - in some senses a sign of failure.

As we have always promised, we examined our commitment to implement North in the light of the experience of this marching season, and believe that our policy remains the right one. But through that process of examination we have identified some enhancements to the arrangements which will be included in the legislation.

We believe experience in 1997 as in the previous year, supports the North analysis that the current system can operate to provide an incentive to disorder, putting the police in a "no win" situation within the narrow public order based statutory framework.

Whatever decision they take, they are liable to be accused of bowing to force and compromising their impartiality.

We believe an independent commission can help take the pressure off. And we believe the power to take broader factors into account can help reduce the incentive to disorder identified by North.

The questions people want to know about our new policy are obvious. How will it work on the ground? What sort of decisions will result? Who will take them, and when?

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Setting up an independent body means of course just that. If I could give a fixture list for next year's parades and how the Commission might treat them, there would be no job left for the Commission. Nor would its independence look very credible! But these questions deserve to be addressed.

Our decision to implement North's recommendations was made on its merits. But it is also fully in line with the firm position we have taken on rights both in opposition and in government. In particular, the consultation document 'Bringing Rights Home', which set out Labour's plans to incorporate the European Convention on Human Rights into domestic law, has set the agenda for the early months of the new administration.

Rights underlie our approach. Because they are the natural heritage of all, regardless of political affiliation. But also because we believe a system based on transparency and recognised rights stands the best chance of success even in the vexed area of marching.

Over the past few years, the political spotlight on individual parades has grown ever more intense. Operational decisions have been examined as if they gave signs of the underlying balance of power between the two communities. Does a re-route there say something about the Government's policy towards the talks process? Is the fact that a march is going ahead a sign that some deal is in the air?

Nothing could demonstrate more clearly the need for a rights based approach. The issue of marches needs to be depoliticised. The vast bulk of the population have no wish to see a Northern Ireland where every decision is a trial of political strength along the same old

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lines. We need instead to create space in the ordinary life of Northern Ireland where actions and decision can be determined objectively within a framework of rights and obligations to which everyone can subscribe.

Some might feel this is ambitious. But the commitment of all the parties at the talks to a Bill of Rights for Northern Ireland is a sign that this may be an idea whose day has come.

Several different rights are at issue here. The right to march, and the right to lawful protest, for example. Both are recognised in article 11 of the ECHR, which protects the right to freedom of peaceful assembly. The Government will shortly publish a White Paper setting out our proposals for ECHR incorporation, which will ensure that the courts here in the UK will be able to take the authorities to task if these rights are unreasonably withheld.

But the Commission will have other responsibilities too. These include protecting against severe damage to community relations as a result of intimidatory, provocative or sectarian behaviour.

Its powers will be broad. In some situations, it will be able to require changes to the route of a parade. But it would also have powers to impose conditions as to the numbers and conduct of marchers. There is much which needs to be done in this area. In particular, the scenes of drunkenness and sectarian intimidation particularly associated in the public mind with some band parades have led to calls for action from both sides of the community. People have the right not to have to put up with this type of behaviour.

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Despite some misinformed claims, we are not looking to curb parades. But nor are we in the business of providing a charter for coat-trailing exercises.

We have also looked at claims that establishing a Parades Commission focuses too narrowly on a method of expressing cultural identity which, in practice, is undertaken particularly by one side of the community. We understand these concerns. The problems of fear and intimidation as a result of aggressive manifestations of community identity are not only found in the parades context.

Accordingly, we plan to take powers to enlarge the Commission's remit. While it would not be given any further executive powers, the Commission will be asked to keep under review and make any recommendations it thinks fit to the Secretary of State on the law and practice relating to other public manifestations of cultural identity - from whichever quarter they come - which in its view might damage relationships within the community. (I should make clear, in view of some recent suggestions in the media, that those manifestations would not include sporting events.)

I have put this provision on the face of the Bill because I believe it is important to ensure that parades are not the only facet of cultural identity which could receive attention. However, the Commission will initially have a great deal to do to establish how it will take forward its new responsibilities. I will therefore not bring this further remit into operation immediately. But I will keep it under close review and hope that it will be possible to activate the provision within a matter of months.

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What I have said today should go some way towards easing the fears of those in the loyal orders who may have believed this legislation was designed to attack their traditions and even their identity. That is far from being the case. Indeed, we have also decided to endorse North's recommendation that, where the route of a parade is long-standing, this should be one of the range of factors the Commission should take into account, and have included that provision on the face of the legislation.

But this does not mean that such parades will be guaranteed a free passage. It will be a matter for the Commission, in any particular case, to weigh up and balance all the factors before reaching a conclusion.

The right to march is available to be exercised by both sides of the community. But while there must be parity of rights between the communities, I hope we will also see developing parity of respect for the other's sensitivities and traditions, and a growing acceptance that cultural identity should not be celebrated in ways which may potentially offend others. I believe these new arrangements will help to bring that about.

This marching season has seen a number of occasions when people were prepared to take the broader view, and to draw back from controversy in the interests of the whole of Northern Ireland. Those making these decisions were brave as well as statesmenlike. I hope that their contribution will not be forgotten by either side.

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But even more, I hope the new structures we are establishing will make such gestures easier. In our rights-driven approach, a sensible decision not to exercise a right will not make it any the less real, or reduce the possibility that it can be exercised again in future.

I have today outlined the broad approach to the parades issue which the Government is taking. The Parades Commission itself will soon publish for consultation draft Guidelines, the Commission's own Procedures, and a Code of Conduct for those taking part in or organising parades. We decided in the light of the importance of this issue that legislation should take the form of a Bill, not an Order in Council. I expect considerable debate and discussion ahead. But I hope our approach can win broad acceptance, and am confident that it will make a real difference on the ground. And I hope that this legislation will reinforce the growing consensus that the parades issue should never again be allowed to disrupt and destabilise the progress we are making in Northern Ireland towards a peaceful, settled and prosperous society.

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