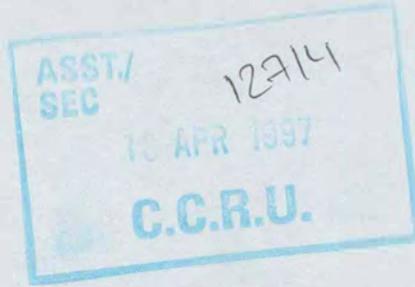
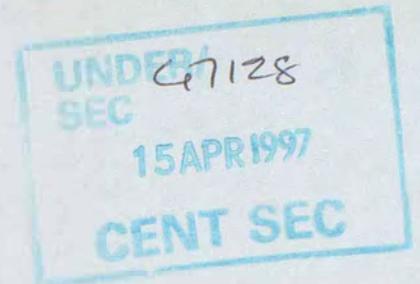


FROM: TERRY SMYTH
Parades Review Project Team
15 April 1997



cc PS/Michael Ancram - B
PS/Sir John Wheeler - B
PS/PUS - B
PS/Sir David Fell - B
Mr Thomas - B
Mr Stephens - B
Mr Watkins - B
Mr Bell - B
Mr Leach - B
Mr Perry - B
Mr Maccabe - B
Mrs Evans - HOLAB - B
Mr Gray - OLC
Mr Strain - B
Mr Burnett - B
Mr Webb
Mrs Jones

in 6 of 16.

*Mr. [unclear]
North Report
file*

1. Mr Steele - B [Slightly amended. JMS 15/4]
2. PS/Secretary of State (B&L) - B

PARADES COMMISSION: CONSULTATION

We discussed with the Secretary of State this afternoon the draft press statement and draft reply to Dr Mowlam's letter, which were attached to your submission of 10 April.

2. The Secretary of State agreed with the proposed line, ie that he should indicate, both in the Statement and in the letter to Dr Mowlam, that, given the imminence of the General Election, it would not be appropriate for him to take a decision on this issue; rather this would be a matter for the new Secretary of State.

3. It was agreed that a reference to the issue of timing of implementation should be added to the statement and the letter. I have amended both documents accordingly and these are attached (changes in bold type).

4. It was also agreed that Dr Mowlam should have 24/36 hours to "mull over" the contents of the Secretary of State's letter before

DR/NPD/511

we issue the press statement. The Secretary of State may feel that it would be helpful for Dr Mowlam to have an advance copy of the statement and I have amended the draft letter accordingly.

Signed

T SMYTH

DR/NPD/511

DRAFT PRESS RELEASE

SECRETARY OF STATE SAYS NO DECISION ON NORTH BEFORE ELECTION

The Secretary of State, Sir Patrick Mayhew, today said that a decision on whether or not the Parades Commission would be given the power to make determinations on contentious parades would not be taken before the General Election.

Referring to the consultative process on the North Report recommendations, which ended on 31 March, Sir Patrick said:

"The consultation period on the main recommendation of the North Report ended on 31 March. The Government decided to embark upon consultation because it felt that it was important that public representatives and other interested parties in Northern Ireland should have the opportunity to say what they thought about the radical and far reaching recommendation of the Report that an independent body should be given the power to take over the RUC's decision-making powers on parades. Well over 100 written submissions were received from right across the political spectrum in Northern Ireland. As well, Ministers and officials had meetings with a range of political parties and other organisations. The response has, I feel, more than justified the Government's decision to consult on this issue. I am most grateful to all of those who took the time to put forward their views".

Sir Patrick went on to say:

"The submissions received during the consultation period shared a common view about the need for marches and parades to take place in a peaceful and orderly atmosphere but there were widely differing opinions as to the best way this could be achieved. All of the views received are being very carefully considered in the context of a detailed analysis of the various policy options which are available.

DR/NPD/511

"I have not as yet reached firm conclusions on the best way forward following the consultation. In any case, in view of the imminence of the General Election, it would not, I think, be appropriate for me to take decisions on this issue. Decisions about the way the Report should be implemented as well as the timing of such implementation will quite properly fall to the new Secretary of State.

"In the meantime, the Parades Commission will continue with its important work of mediation, conciliation and education. As well, the Government will continue to do all it can to facilitate local agreement on contested parades which we continue to believe remains the best way of ensuring an outcome acceptable to all parts of the community".

In conclusion, the Secretary of State said:

"No Commission, whatever its powers, can of itself ensure a peaceful marching season. A successful resolution to the problems of contentious parades lies primarily in the hands of those most directly involved. I am sure that the great majority of people in Northern Ireland will share my sincere hope that good sense and reason will prevail over the coming months".

NOTES TO EDITORS

The Independent Review of Parades and Marches, chaired by Dr Peter North, reported on 30 January. Its recommendations included the establishment of a Parades Commission with the following remit:

- (a) Education, ie working for greater understanding at the local level;
- (b) Promoting and facilitating mediation and the search for local accommodation in respect of contentious marches;

- (c) If mediation fails, considering what conditions might be imposed in respect of individual parades where such conditions are merited under the statutory criteria and, after consultation, notifying the interested parties of its conclusions;
- (d) Keeping under review and amending a Code of Conduct; and
- (e) Arranging for contentious parades and protests to be monitored.

On 26 March the Secretary of State announced the appointment of the Parades Commission, under the chairmanship of Mr Alistair Graham, with an initial remit covering recommendations (a) and (b) above.

The Secretary of State had earlier announced that the North Report's recommendations about the wider powers for the Commission would be the subject of a consultation exercise which would run until the end of March.

DRAFT

Dr Marjorie Mowlam
The Labour Party
John Smith House
150 Walworth Road
LONDON SE17 1JT

April 1997

POWERS OF THE PARADES COMMISSION

Thank you for your letter of 2 April.

As you say, the consultation period on the North Report's recommendations about the powers of the Parades Commission ended on 31 March. You will be interested to know that we received well over 100 written submissions from right across the political spectrum in Northern Ireland. In addition, Ministers and officials had meetings with a range of political parties and other local organisations. The response has, I feel, amply justified our decision to consult on what is by common consent a radical and far-reaching proposal.

While the submissions received shared a common view about the need for marches and parades to take place in a peaceful and orderly atmosphere, there were, inevitably, widely differing opinions as to the best way this could be achieved. All of these views are now being considered in the context of a detailed analysis of the various policy options, which will also take account of other relevant factors such as the ECHR implications. For my part, I have not yet reached a firm conclusion on the best way forward. Nor, given the imminence of the General Election, do I think that it would be proper for me to do so. Decisions about the way the Report should be implemented as well as the timing of such implementation will properly fall to the new Secretary of State. I intend shortly to make a public statement to this effect. I enclose an advance copy for your information.

I am aware of your view that early implementation of North in full would be the best course of action. I have to say that the views

DR/NPD/511

385

received during the consultation period did not reflect wide-spread support for such an outcome. You are aware of the Chief Constable's considerable reservations about full implementation of North for this summer. I understand that he has spoken to Tony Worthington about this. I think that the new Secretary of State will wish to consider carefully the analysis of the range of policy options which are available before reaching final conclusions as to what should be done.

In the meantime, the Parades Commission has begun its work under Alistair Graham's chairmanship and has lost no time in engaging with those involved in the issue. We will continue to do all we can to facilitate local agreement on contested parades which we continue to believe remains the best way of ensuring an outcome acceptable to all parts of the community. In this connection, I agree with you that the responsible action of the Apprentice Boys on Easter Monday in Belfast was a most welcome development, as indeed was the local agreement reached in Dromore. However, more negative signals are emerging about Dunloy parades situation. Let us hope that those who are genuinely committed to reaching accommodation will not be discouraged from continuing their good work and that good sense and reason will prevail.

Sir Patrick Mayhew

DR/NPD/511

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UNDER/ SEC 47121
15 APR 1997
CENT SEC

AMENDED - PLEASE IGNORE ALL
PREVIOUS COPIES 15.4.97
sic

FROM: J M STEELE
SENIOR DIRECTOR, BELFAST
10 April 1997

Ref: 5340/

ASST/ SEC 13414
10 APR 1997
C.C.R.U.

- cc PS/Michael Ancram - B
- PS/PUS - B
- PS/Sir David Fell - B
- Mr Thomas - B
- Mr Stephens - B
- Mr Watkins - B
- Mr Bell - B
- Mr Leach - B
- Mr Perry - B
- Mr Maccabe - B
- Mrs Evans - HOLAB
- Mr Gray - OLD
- Mr Strain - B
- Mr Burnett - B
- Mr Webb - B
- Mrs Jones

*North Report file
(Please destroy
any previous copies
on file)*

in file 10.6.97

1. PS/SIR JOHN WHEELER -B [I am pleased to consider this paper. There are difficult decisions to be made by whoever shall have the ministerial responsibility after 1 May. However, I am especially mindful of the Chief Constable's indicated view: that he would prefer the Commission to have advisory rather than determining powers.

My experience of the political scene and the public order position is that the Chief Constable's view should, in this instance, be paramount. The best option would be to "do nothing", but a purely advisory Commission (option iii) might be acceptable and is as far as we should sensibly go. I would not support going further, believing that to do so would necessarily be to confuse the role and duty of the Chief Constable who must have absolute responsibility for the preservation of life and for keeping the Queen's peace.

JW 11/4]

2. PS/SECRETARY OF STATE - B

PARADES COMMISSION: CONSULTATION

The period of consultation on the North Report ended on 31 March. This submission:

- (a) reports the results of the consultation exercise;

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ID 83369

- (b) addresses the ECHR implications of giving the Commission statutory powers to issue determinations in respect of parades;
- (c) sets out in broad terms the policy options now being considered;
- (d) proposes the issue of a public statement which will enable the Secretary of State to "sign off" this part of the process; and
- (e) provides a draft response to Dr Mowlam's letter of 2 April (copy attached) in which she enquires whether the Secretary of State has yet reached a conclusion about the powers which the Commission should have.

2. The submission does not include a recommendation about which option should be pursued, on the basis that decisions on the way ahead will be taken by the new administration, following the General Election. A more detailed analysis of the options is being worked up and this will be available for the new Secretary of State on appointment.

CONSULTATION

3. Views on the recommendation that the Commission should have power to issue determinations in respect of parades, and on associated recommendations of the North Report, were sought by public advertisement in the local press. In addition, the Secretary of State wrote to political parties and other major groups inviting them to submit views. Those bodies and individuals who had made submissions to the North Committee were invited to submit further views if they wished.

4. In total, some 120 written submissions were made. In addition, meetings were held at both official and Ministerial level with a range of political parties and other groups. The consultation

process revealed few surprises. Submissions received from the unionist parties, from the loyal orders and from individuals from within the unionist/Protestant community were totally opposed to the Commission having statutory powers of determination as proposed by North. Indeed, many were opposed to having a Commission at all, irrespective of the powers it would have. The Chief Constable, on behalf of the RUC, indicated that he would prefer the Commission to have advisory rather than determining powers. (Privately he has indicated that he very strongly opposes giving the Commission powers of determination, believing that such a move in the circumstances of the coming summer would be "disastrous"). On the other side of the coin, submissions received from the SDLP, from other nationalist interests and from individuals within the nationalist/Catholic community by and large argued for the implementation of the full North Report. This latter view was shared by two of the "cross-community" parties in the Forum, Alliance and the Women's Coalition and by the Police Authority, although the four Unionist Councillor members of the Authority dissented from this line.

5. Many of those submissions opposed to giving the Commission a determining role, some of which were couched in highly emotive language, saw the North proposal as a sop to Sinn Fein/IRA and the Irish Government. In particular, they were deeply suspicious of the role of the various residents groups which they saw as fronts for Sinn Fein who were working to provoke confrontation between Protestants and the RUC, with the ultimate objective of destroying the Protestant culture in Northern Ireland. There seemed to be a general consensus that a Commission with a power of determination would, almost by definition, exercise those powers against the interests of the loyal orders and in favour of the local residents.

6. Many of those submissions which supported the Commission having powers of determination were generally critical of the Government for not implementing the main North recommendation in time for the Commission to exercise its powers in respect of the 1997 marching season. In many cases support for pushing ahead with the full implementation of North appeared to stem more from a feeling that

"Something must be done", than from a considered view that implementation would in practice assist in resolving the problem. In particular, a number of these submissions, most notably the SDLP, opposed the recommendation that the RUC should have the power to override a Commission decision on the day. Again, this reflected an apparent assumption that a Commission with powers of determination would be more likely to exercise these powers to re-route contentious parades than to let them proceed.

7. In a consultation exercise of this type, given for example that many of the submissions opposing determining powers for the Commission used a standard proforma letter, a simple head count of submissions for and against is not particularly instructive. However, for what it is worth, those written submissions opposing the main North recommendation were in a clear majority. A fuller analysis of the submissions is being prepared, including a list of all those who submitted views and with whom meetings were held.

ECHR POSITION

8. Article 11 of the European Convention on Human Rights (ECHR) effectively protects the right to march; and requires that no restrictions may be placed on this right except in specified circumstances, which include the prevention of disorder and the protection of the rights and freedoms of others. Counsel has advised that, in his opinion, the "rights and freedoms of others" can be rights and freedoms which are not themselves protected under the Convention. On balance, therefore, he felt that we could defend legislation which would give the Commission powers to restrict the right to march by citing a pressing social need to preserve order and improve community relations and that the Convention institutions, if they are convinced that these powers are really necessary or are really likely to be useful, would probably apply a broad/general interpretation to the rights and freedoms of others.

9. We have concluded, therefore, that while there can be no absolute certainties and while challenges are inevitable, there are no overriding ECHR reasons why we could not, if we wish to do so, legislate for the implementation of the main North recommendation.

OPTIONS

10. The options for the way ahead which we are now considering are as follows:-

- (i) Full implementation of North (ie implement extra "community relationship" criterion and give adjudicatory powers to Commission).
- (ii) "Do nothing" (ie restricting the Commission to its existing mediation/education remit).
- (iii) An advisory Commission (ie Commission given extra, non-statutory role of advising police on its view of the applicability of the existing criterion of "serious disruption to life of the community", with discretion to take a broad overview rather than focus on a single parade).
- (iv) Commission with more limited decision - making role (ie the Commission would be empowered to determine conditions relating to, for example, numbers and behaviour, but not re-routing, which would stay with the police on the existing criteria).

11. As indicated above, a separate paper is being worked up which will analyse each of these options in some detail and make recommendations. But as the Secretary of State is aware our current thinking is that, for this Summer at least, the advisory Commission option would be the best way forward, with the Government giving a commitment to review in the Autumn, in light of developments over the Summer, what further steps might be necessary.

PRESS ANNOUNCEMENT

12. Despite the fact that decisions on the way ahead are for the new administration to take, we feel that there would be advantage in the Secretary of State making a public statement before the Election. This would give him the opportunity to acknowledge the wide range of views received during the consultative process, and thank those who submitted them, to indicate that all views received are being carefully considered and analysed and to confirm that decisions on the way ahead will be for the new administration to take following the General Election. A draft of a press statement on these lines is attached.

DR MOWLAM'S LETTER

13. Dr Mowlam wrote to the Secretary of State on 2 April, pointing out that the consultative period ended on 31 March, asking when the Secretary of State would be producing a full response to the North Report and enquiring what conclusions he had reached about the powers which the Commission should be given. The attached draft reply refers to the views received during the consultative process, which did not reflect widespread agreement on the way ahead, assures Dr Mowlam that officials are giving careful consideration to these views and to other relevant factors such as the ECHR implications, and are currently analysing the options available. However, given the imminence of the General Election, he does not intend to make a formal response to the North Report; rather, this will be a matter for the new administration.

Signed J M STEELE

J M STEELE
Ext 28138

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DRAFT PRESS RELEASE

SECRETARY OF STATE SAYS NO DECISION ON NORTH BEFORE ELECTION

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Sir Patrick went on to say:

"The submissions received during the consultation period shared a common view about the need for marches and parades to take place in a peaceful and orderly atmosphere but there were widely differing opinions as to the best way this could be

CONFIDENTIAL

ID 83369

393

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"I have not as yet reached firm conclusions on the best way forward. In any case, in view of the imminence of the General Election, it would not, I think, be appropriate for me to take decisions on this issue. This will quite properly fall to the new Secretary of State.

"In the meantime, the Parades Commission will continue with its important work of mediation, conciliation and education. As well, the Government will continue to do all it can to facilitate local agreement on contested parades which we continue to believe remains the best way of ensuring an outcome acceptable to all parts of the community".

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DRAFT

Dr Marjorie Mowlam
The Labour Party
John Smith House
150 Walworth Road
LONDON SE17 1JT

April 1997

POWERS OF THE PARADES COMMISSION

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396

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Sir Patrick Mayhew

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397

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201
The Hon Sir Patrick Mayhew MP
Secretary of State for Northern Ireland
Northern Ireland Office
Whitehall
LONDON
SW1A 2AZ

2 April 1997

Dear Patrick

THE POWERS OF THE PARADES COMMISSION

In your response to the North Report on January 31st, you announced a further two month consultation period on one of the central recommendations in the Report - the powers of the Parades Commission.

Since that consultation was due to be completed on March 31st, can you tell me when you will be producing your full response to the North Report? What conclusions have you reached about the nature of the powers the Parades Commission should have? Do you now agree with the North recommendation that the Public Order (Northern Ireland) Order 1987 should be amended to require that consideration is given to the wider impact of a parade on relationships within the community?

The responsible decision taken by the Apprentice Boys in Belfast on Monday was welcome to us all. I hope it reflects a wider desire in Northern Ireland for the confrontations of last year to be avoided this summer.

The establishment of the Parades Commission is a welcome step in helping this process. I would be very grateful to know what conclusions you have now reached about the powers it should be given.

Yours sincerely

Marjorie Mowlam MP
Shadow Northern Ireland Secretary

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ID 83369

398