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FROM: JONATHAN STEPHENS  
Associate Political Director (L)  
11 April 1997

Mr Leach

- cc PS/PUS (L&B)
- PS/Sir David Fell
- Mr Steele
- Mr Thomas
- Mr Gray, OLC
- Mr Bell
- Mr Ray
- Mr Watkins
- Mr Beeton
- Mr Brooker
- Mrs Brown
- Mr Hill
- Mr Maccabe
- Mr Perry
- Mr Priestly
- Mr T Smyth
- Mrs Evans, HOLAB
- Mr Clarke, Dublin

*4/4*  
*Mrs McAuley*  
*Mr [unclear]*  
*W.D. [unclear]*

**PARADES: OPTIONS FOR THE WAY AHEAD**

I was most grateful for the opportunity to comment on the papers you circulated on 7 April at the meeting John Steele held this Tuesday. Clearly this is an issue on which the Security and Policing Directorate, and the Parades Review Team in particular, have been thinking for a good deal of time. None of us can see easy answers and all of us can see potential for grave disorder on almost any route we follow. Nonetheless, I found it very valuable to have Tuesday's extended discussion and I hope others did as well. I think we all know that the Parades issue is not simply a public order one but reflects the underlying political divisions and is both affected by, and can have a marked effect itself on, current political developments.

2. With that in mind, I thought it might be helpful to set out my comments in a slightly more coherent fashion than was perhaps possible at the meeting.
3. There was much sensible analysis in the papers you circulated with which I agree. I also understand that these papers were not intended as the sort which might be put before new Ministers of any kind and were intended more to expose your thinking so far and so inevitably argued for a preferred option rather than setting out to offer as

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balanced account of them all. Nevertheless, as I articulated at the meeting, I do have several doubts about the underlying analysis.

4. First, I think that any analysis must start with a frank admission of the failures of the present system which were so exposed with disastrous results at Drumcree last year. The exclusive concentration on public order criteria (whatever the law in fact may require), when we all recognise that the Parades issue is all about politics; a decision making body - the RUC - which, despite admirable efforts since 1985 which appeared to be bearing fruit and arguably through little or no fault of its own, simply no longer carries legitimacy in either community on this issue and has no prospect of regaining it in the foreseeable future; the rewards for violence under the present system (already brought out rather well in the papers, I thought).

5. My point about the unacceptability of the RUC as the decision making body on this issue has been reinforced, as Mr Webb has brought out, by this week's Belfast Telegraph poll. That showed that an option which left the police taking decisions on contentious parades was the most unacceptable across the community. I suspect that for many even an advisory commission, which leaves decisions nonetheless fully in the hands of the RUC, will look uncomfortably close to this "most unacceptable" option. ✓

6. Second, the papers quite rightly drew attention to unionist fears and concerns surrounding the whole issue and the risk of further serious alienation of the unionist community as a whole. We should clearly not play this down, whatever policy commitments new Ministers arrive with. Nor, however, should we give them the impression that our concerns focus exclusively on unionists. For this reason, I think there needs to be a significantly expanded and more nuanced analysis of the nationalist attitude to parades.

7. Paul Priestly commented, and I agree, that even Sinn Fein's attitude is more nuanced and less cynical than the paper suggested. But, just as important, there is the wider nationalist community. This is such a successful issue for Sinn Fein precisely because it taps into deep nationalist concerns and fears. They see marches as a means of confirming their second class status: reminding them who is boss and that, even within their own communities, nationalists must put up with triumphalist displays of the other tradition when equal rights are not accorded to theirs. They see marches as an implicit, and at times explicit, threat of loyalist violence if they get out of line: a threat in moral terms no less reprehensible than those used by republicans.

8. We should not forget that Drumcree radicalised nationalism as well as radicalising unionism. Alongside the reports of middle class unionists rushing to the barricades, there were reports of middle class nationalists (or, rather, Catholics who did not particularly see themselves as nationalists) who were so appalled that they were talking in terms of supporting Sinn Fein for the first time. Were we to fall into the assumption (which I am confident we shall not) that nationalist views are simply being whipped up by Sinn Fein for purely cynical purposes - "If only Sinn Fein weren't around, all would be

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fine and nationalists would be enjoying the great Orange folk festival" - it would be a fundamental miscalculation.

9. The issue goes to the heart for nationalists of whether, if they are to accept that their future in Northern Ireland is as part of the United Kingdom, a way can be found nonetheless to give equal respect to their rights, aspirations and traditions. On the evidence of Drumcree, many will now have doubts about this and have no confidence in the RUC to answer those doubts. If we cannot put in place an alternative mechanism for taking decisions on these issues, which secures legitimacy across the community including with nationalists, then the outlook for any wider political settlement is bleak.

10. There seemed to be in the papers a hidden assumption that anything which provides a legitimate form of protest against parades will only serve the purpose of allowing Sinn Fein to exploit the issue. That assumes that nationalists are happy with parades at present. I think they are not but that many suffer in silence rather than get involved in disorder on the streets because of all the consequences that go with it. Put legitimate mechanisms for expressing protest in place and there may well be an increase in the number of protests - but that need not be because Sinn Fein are exploiting the issue, but because nationalists no longer need suffer in silence.

11. And even if - and I do not - you think Sinn Fein are purely engaged in cynical exploitation, then arguably the answer is to deny them the issue by providing a solution which moderate nationalists will support even if Sinn Fein do not.

12. Third, it is possible to offer a number of views on what brought Drumcree about and consequently of the effect on the situation of the North recommendations. I think it is very difficult to reach a concluded view but the current papers do rather seem to plump for one analysis. For example, there is the view that Drumcree was not so much a sudden and spontaneous outpouring of natural unionist fears, but a planned and considered exercise in using force to achieve political ends. There is also the view that, in this, unionists were legitimised by the ending of the IRA ceasefire earlier in the year. On this analysis, the sectarianism we have witnessed over the past year rather than simply being other expressions of the deep unionist feelings expressed at Drumcree was itself legitimised by the violence at Drumcree and the unionist ability demonstrated there to overthrow the rule of law. What, on this analysis, is required is a restoration of that rule of law on a basis which commands legitimacy across the community. I am not convinced by this analysis; but I am not convinced enough by the alternatives to dismiss it either.

13. Finally, the case for North is that it offers a prospect for filling the vacuum in terms of legitimate authority which currently exists. The RUC, whether they want to or not (and last year they did not want to take the decisions any longer) cannot command legitimacy as the decision making body on parades. There is therefore a vacuum. Either it will be filled on the streets or we find some other means of restoring legitimacy. North suggests one such means. If an independent body genuinely commanded legitimacy on both sides, then it must make it easier for moderate elements on both

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sides to coalesce around that body's rulings and support them, than having to take the full strain of delivering compromise themselves. Clearly one hopes the route of voluntary agreement will work but it has to be said that the omens so far are not good.

14. Turning to presentation I think it is now accepted that a Labour Government would take office committed to the full implementation of the North Report. Indeed, Dr Mowlam is clearly expecting to legislate immediately. Our approach to a Labour Government should clearly be conditioned by that and we should be ready to deliver implementation on the fastest possible track. ✓

15. But, more generally, whoever is in Government, I think the analysis offered to Ministers will need to address three separate but interrelated issues:

- where do we want to get to in the long term? On that, I have to say I think the arguments for North are overwhelming, based on the failure of the present system, the need to restore a measure of legitimacy and the lack of credibility in giving the decision making power to the RUC alone;
- what is the best route to get there? On this there are at least two views: the "quicker the better" school of thought, which I think included all those who offered advice to the Secretary of State when the North Report was published, on the analysis that the longer the vacuum lasts the worst things could get and the harder it will be to re-establish some legitimate authority. Or "the gradualist" school which is currently coming to the fore. There are views for both which could usefully be brought out. There is also the issue, whatever one's conclusion on the longer term objective, as to how explicit one should be in the short to medium term about that longer term objective. Again there is a range of potential options; ✓
- what is achievable this year? That is related to, but not the same as, the previous issue. Particularly for a Labour Government, there clearly exists the possibility of saying that we want to implement North and we want to do so as quickly as possible but in practical terms it really does not make sense to do so this year.

16. It is, inevitably, the latter area on which all our minds most naturally focus. But the full range of options for this year needs to take account of the other two issues. The papers you circulated suggested that the choice really came down to two options: implement North in full or go for an advisory role. I agree that describes the range of options, but I think there are a good number of in between options which need to be looked at more carefully, including:

- a range of options on what is said about longer term intentions, assuming North is not fully implemented this year. That range might include a firm commitment to implement North come what may; a firm commitment subject to any lessons learnt from this marching season; a further review of the options after this marching season including the option of implementing North in full; wait and see what, if any, changes are required after this marching season;

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- a development of one of these options would be to legislate in full this summer but not to bring all of it into force for this summer. That would perhaps be the strongest form of commitment to long term implementation of North;
- amending the criteria and giving the commission an advisory role in respect of the new criteria, but otherwise leaving the RUC with the decision making responsibility. Again, that takes account of the practical considerations concerning full implementation this year but arguably gives a stronger sense of commitment to the North analysis and approach.

17. I remain concerned that the sort of approach you suggest will take all the pain from unionists, for establishing a commission which will dare to express views on where and when they should march, for none of the gain from nationalists, who will see that decision making remains with the RUC, the criteria remain unaltered and will expect the commission's advice to be ignored.

18. Finally, one reflection on the Belfast Telegraph poll. Stephen Webb's note of 9 April rightly comments on the "mysterious" fifth option and notes the almost entirely opposite result in the North Commission's own polling. The explanation behind this might be that the Belfast Telegraph simply asked people whether they wanted the North Report implemented in full, without explaining what that involved. People, particularly Protestants, did not like that because they had been told that North was bad for them. But when offered an option - in terms of equality before the law with decisions taken away from the RUC and given to an independent tribunal - which is remarkably close to what North actually recommended, opinion on both sides supported it as the favourite option.

19. That suggests we face the same problem with North as with the Frameworks - it's the right solution if we can get people to understand it properly. In that connection, I wonder whether it might be worth examining the possibility of separating out the current commission's role from any adjudicatory role and giving the latter to a separate tribunal. The tribunal would only be brought in where mediation has failed. It would be a more legalistic body so perhaps gaining something of the reputation of impartiality enjoyed by the courts. But the commission would be able to bring cases to it or present evidence on cases to it. This might be a way of implementing North without being seen to implement North which, I suspect, is the trick we shall need to pull off.

(Signed JAS)

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