

FROM: PS/SECRETARY OF STATE (B)  
25 November 1998

- cc PS/Secretary of State (B&L) - O
- PS/Mr Ingram (B&L) - O
- Mr Watkins - O
- Mr Jeffrey - O
- Mr McCusker - O

Mr Leach - O

**ORANGE ORDER MEETING WITH THE PRIME MINISTER: 23 NOVEMBER**

I attach copies of three information sheets on Drumcree and the Quinn murders, and a paper on the case against the Parades Commission, which the Orange Order delegation handed over to the Prime Minister at Monday's meeting. On a quick skim, there appears to be nothing new in the papers.

*SIGNED*

N P PERRY  
Private Secretary

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NP/ORANGE/BB



# Grand Orange Lodge of Ireland

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## INFORMATION SHEET NO. 1 - DRUMCREE SITUATION

There has been much talk and advice as people tell the Institution what they should do about the Portadown Orangemen's continued presence at Drumcree. There has also been much speculation as to the reasons why they have not completed their parade. However, what is important, is that we concentrate on assisting the Portadown Brethren to return to Carleton Street Orange Hall. There will be a full assessment of the events surrounding the initial phase of the stand-off in due course. But even at this stage it is clear the terrorism and violence carried out during this period, had a serious negative effect on our peaceful strategy.

The focus moved from our peaceful protests and the reasons for the stand-off, to that of the inexcusable violence. The story unfortunately became the trouble and not the injustice and infringement of civil rights. Thus it is worth re-focusing on why the situation arose in the first place.

Portadown Orangemen were refused permission to walk along the Garvaghy Road, a main arterial route from their Annual Church Service at Drumcree Parish Church. This decision was taken by an unelected government quango, the Parades Commission, which is perceived to be neither independent nor impartial. The reason the Commission gave for re-routing the parade was, that they wanted to "break the cycle" of Orange parades along the road, even though they recognised the parade would be peaceful, orderly and dignified.

The campaign against parades is organised by Sinn Fein/I.R.A. as a tactic in their campaign to remove the British presence from Northern Ireland. Gerry Adams confirmed this at Athboy in 1997 when he spoke of the republican anti-parades strategy being three years in preparation. The Garvaghy Road Residents Association have no logical reason for objecting to the parade. Their opposition involves a broader equality agenda of matters relating to social economic issues, over which the Institution has no control. Many believe their agenda includes having a levy paid by government so others can enjoy the right of free assembly and movement. No talk - No walk - No money - No march. Blackmail by any other name.

The Orange Institution will continue to support the Portadown Brethren, but it must be realised the next phase will be a long-term strategy and thus different in nature and character. However, this only increases our determination and commitment to see civil rights upheld. There will be opportunities over the coming weeks to support the campaign in many ways. Please ensure all who join us in this campaign understand they will only be made welcome if they are committed to peaceful protest. Violence is the weapon of terrorists and thugs, there is no place for it in any event organised by the Orange Institution.

Contact District and County Officers to hear what is happening in your area. Stop rumours and do not be drawn into any public debate which is stage-managed to split the unity and purpose of the Institution.

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## INFORMATION SHEET NO. 2 - DRUMCREE - GOOD FRIDAY AGREEMENT

One of the great misconceptions that abounded in some quarters in Northern Ireland and beyond over the Drumcree protest by Orangemen was that the issue was part of the political opposition articulated against the Good Friday Agreement.

Such an assessment is far removed from the truth and it can be instantly dismissed by the fact that the members of Portadown District and their friends and supporters in the wider Orange and Unionist families have been campaigning vigorously over a number of years to have their civil liberties upheld in their traditional walk along the Garvaghy Road.

The great concerns and apprehensions raised in relation to the hijacking of the parades' issue by extreme Irish republican elements, in Portadown and other places, were expressed years before the Stormont deal was brokered and the new Northern Ireland Assembly spawned.

The Orange standpoint at Drumcree is quite simply in defence of civil liberties for all; the right to walk the Queen's Highway unhindered from the threat of intimidation and violence, from whatever quarter. This principle - an accepted part of normal democracy throughout the world - has been supported by unionists of the widest spectrum of opinion and the question of whether one voted "Yes" or "No" in the recent Referendum is totally irrelevant.

Indeed, Portadown District Lodge in their stand-off received the wholehearted backing of many public representatives and ordinary citizens, who, although they favoured the Good Friday Agreement in the Referendum, nevertheless felt the need to raise their voices against the denial of freedom of assembly and the obvious erosion of democracy in decisions reached by the unelected quango the Parades Commission. It is interesting to note that of the 33 members of the Assembly who are in the Orange Institution, half were broadly in support of the Good Friday Agreement and, all of these persons, expressed sympathy for the action taken by the Portadown Lodges.

The democratic decision taken by the people of Northern Ireland by the "Yes" vote in the Referendum is recognised by the Orange Institution and we intend to play our part in proposed civic structures. The allegations continually made by members of government, political parties and regrettably some leading church figures, linking the Drumcree situation to the Referendum "No" campaign are reprehensible. The Northern Ireland Office tame opinion formers, negated by exposure prior to the Referendum, appear to be crawling out of the woodwork. They seek to invent divisions were none exist, rather than building trust between and within communities.

The Grand Orange Lodge of Ireland fully supports the work of the new Northern Ireland Assembly in its task of underpinning the future peace and stability of this Province within the United Kingdom for the benefit of all its citizens. Part of our political agenda is, to safeguard the Union and, in upholding this constitutional imperative, we make absolutely no apology to anyone for doing so. The Referendum is over; let us all deal with the realities of the present.

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## INFORMATION SHEET NO. 3 - QUINN MURDERS

The Orange Institution along with all in society condemned the horrific murder of the Quinn brothers unequivocally and unreservedly, and expressed our sympathy to the family circle. We, unlike others, do not believe in exploiting the deaths for propaganda purposes. However because of the hostile press linking the murders to the protests in support of Drumcree we believe it is important to clarify some points.

### Why were the Quinn Brothers murdered?

We are told it was simply because of sectarian hatred. A hatred bred out of intolerance, misconceptions, and a lack of respect. Violence spawned by such hatred is not new in society; we have all experienced it particularly over this past 30 years. It has been evidenced by the ethnic cleansing of Protestants from certain areas by Sinn Fein/I.R.A. and the indiscriminate murder of Roman Catholics by Loyalist terrorists. Segregation breeds a society where hate is fueled and violence results. We live in such a society and we must play our part to reconstruct communities free from injustice and inequality. A society where accommodation becomes the stepping stone to normality.

### Was the Orange Institution to blame for the murders?

No - The ultimate blame rests with whoever started the fire. However society as a whole must accept the role all sections have played in creating the conditions whereby negative sectarianism flourishes. Whether that is the intransigence of the Residents Groups, the legalised segregation of the Parades Commission or the determination of the Orange Order to see that Civil Liberties are upheld. Whether that be the stand of the Churches, the silence of the business community or the positioning of politicians, society is a product of all its constituent parts. If sectarian hatred was the reason for the murders then society must shoulder the responsibility. The Orange Order is not the scapegoat for society's shortcomings. Murder and violence are most definitely not the stock and trade of the Orange Institution.

### Is the price of walking a road worth any life, let alone that of three innocents?

The answer of course is No. But it must be stressed no one ever said it was. Lives are lost because there are those who would turn to violence to further their twisted logic and hatred. Unfortunately in Northern Ireland this is endorsed by government policy which rewards terrorism and those who threaten violence. The Orange Order repeatedly condemned the violence and asked for it to be stopped, but our pleas were just as ineffective as those of the Church Leaders and Politicians. The price of not walking the Queen's Highway is a further segregated society. A society where potentially more tragedies would occur. Working for and supporting civil rights for all will assist in reducing sectarian hatred.

The Orangemen at Drumcree or those supporting them cannot be held to account for the murder of the three Quinn Brothers, any more or any less than any other section of society. The continued demonisation of ordinary decent people who engaged in peaceful protest and were sickened by all the violence is a despicable manipulation for political purposes of this tragic event.

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## The Case Against The Parades Commission

### Background

The Parades Commission has its roots in the Independent Review of Parades and Marches as established by Her Majesty's Government in August 1996. The North Report as it became known was completed in January 1997.

The Grand Orange Lodge of Ireland both in an initial submission to the Review body and in a response to their Report detailed our views on parades and the way forward. Regrettably the points we made in both instances were largely ignored.

The Independent Parades Commission was established on 26 March 1997. The Commission initially had an informal role.

On 17 October 1997 The Parades Procession (Northern Ireland) Bill was proposed by the Secretary of State, Dr. M. Mowlam, to formalise the remit of the Commission, including granting it authority to determine on parades.

The Grand Lodge again put forward its views and expressed to Government our concerns at the impact of the proposed legislation.

On 27 October 1997 the Parades Commission produced draft proposals in respect of Public Processions and Parades in the form of three booklets - a Code of Conduct, Procedural Rules and Guidelines.

It is interesting to note that on 25 April the Parades Commission had written to Grand Lodge seeking a nomination from the Institution to provide expert advice on a Code of Conduct. Grand Lodge confirmed on 2 June 1997 that it was willing to nominate two representatives to meet with the Parades Commission on this specific issue.

The original letter from the Parades Commission stated "The Commission is keen to ensure that in drafting the code, we should seek to build upon the expertise of those with most experience in organising parades and processions in order to produce a practical and sensible working document". Despite this our representatives were never invited to a meeting with the Parades Commission.

Upon becoming aware that the draft Code of Conduct was almost ready for publication we wrote on 13 October to the Parades Commission expressing surprise at this given the non involvement of our representatives. In a letter of 15 October from the Parades Commission we were advised that after publication of the draft our two representatives would be among those consulted. That never happened.

On 16 February 1998 the Public Processions (Northern Ireland) Act 1998 received Royal Assent.

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## Civil Liberties

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### (a) *In Legislation.*

In every democratic society the state has a responsibility to protect certain fundamental rights.

These include, freedom of religious belief, free speech, the right of free association, the right to live in peace and the right of cultural expression.

In many countries these rights are enshrined in either the constitution of the country or a Bill of Rights and collectively form basic human rights which are the entitlement of every citizen.

To deny any one of these is to question the right of freedom of the individual or a group of people in pursuit of lawful activity.

The right of free association and right of assembly underpin the right to parade.

In the United States of America the Constitution guarantees the rights of free expression and peaceful assembly.

The Federal Congress has its powers on these issues restricted in that "Congress shall make no law - - - abridging the freedom of speech - - - or the right of the people peaceably to assemble".

In the Republic of Ireland the Constitution likewise guarantees the right to peaceful assembly. Under the "Offences against the State Act 1939" it is unlawful to hold a public meeting or procession in support of an unlawful organisation.

The Belgian Constitution includes the following provision in Article 26 "Belgians have the right to gather peaceably and without arms".

The Constitution of the Republic of South Africa (1996) contains a Bill of Rights.

Article 17 states "Everyone has the right, peacefully and unarmed to assemble, to demonstrate, to picket and to present petitions".

Article 36 deals with the limitation of rights and states as follows. "The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

The European Convention on Human Rights was signed in November 1950 and came into force in September 1953. It has been ratified by the United Kingdom.

Article II of Section I of the Convention guarantees freedom of peaceful assembly and association.

"No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others".

The United Nations International Covenant on Civil and Political Rights expresses similar views in Article 21.

"The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others".

We appreciate that absolute freedom of assembly could lead to chaos and anarchy and there must be checks on it. Such checks are generally in the area of public order. These conflicting principles involve difficulties for liberal democracies but the norm in most nations is that the right of assembly is guaranteed subject to certain exceptions.

We would contend that the concept of placing restrictions on the right of free assembly in the interests of public order is obviously directed at those whose intention is to parade to create disorder.

(b) *In the Courts.*

Courts in the various countries have generally upheld the right to parade.

In the Northern Ireland context the following have found in favour of the right to parade.

- 1991 Her Majesty's Court of Appeal in Northern Ireland.  
In the Matter of an Application by Connor Murphy for Judicial Review.
- 1992 In the High Court of Justice in Northern Ireland.  
July - Queens Bench Division.  
In the Matter of an Application by Patricia Breen for Judicial Review.  
August - In the High Court of Justice in Northern Ireland.  
Queens Bench Division.  
In the Matter of an Application by Jennifer Armstrong for Judicial Review.
- 1993 In the High Court of Justice in Northern Ireland.  
Queens Bench Division.  
In the Matter of an Application by Matthew Murphy for Judicial Review.

Case law in England endorses the principle that a lawful parade should be guaranteed a right of passage.

Viz *Beatty V Gillbanks* 1892  
and *Regina V Clarke* 1963

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The Supreme Court in the United States of America has frequently upheld the right of free expression and free assembly. Indeed both Federal Courts and the Supreme Court have protected the rights of free expression and peaceful assembly against any attempt to have them banned or altered in some measure by those who are opposed to the views expressed or the principles of the organisation involved. The suggestion that parades be interfered with because they may cause offence has been totally rejected. On occasions the police have protected the marchers from a hostile crowd. An example of this policy involving an Orange Parade occurred in New York in 1871.

However the most famous case in America is the Skokie case.

The above are basic examples and the use of such illustrations does not imply recognition that Orange Parades are in some way offensive.

### **The Parades Commission - Why We Oppose It**

(a) It is an unelected quango allegedly accountable to no one for the decisions it makes. We are deeply disappointed that the creation of another quango is considered in any way an adequate or even a realistic answer to the problems facing our society.

(b) The apparatus it operates within, the Public Processions (N.I.) Order is legislation which in our opinion fundamentally undermines basic human rights of freedom of assembly and freedom of movement. As an organisation committed to Civil and Religious Liberty for all it would be hypocritical of us to support the Commission.

(c) The work of the Commission legitimises the concept of apartheid. By accepting the view that the public highway cannot be traversed by certain groups because people of another tradition may live on or near part of the route is to give credibility to an apartheid system based on cultural, racial or religious grounds. The Orange Institution in South Africa could not operate in the apartheid era because we could not accept the restrictions it imposed. We cannot accept apartheid within Northern Ireland.

(d) The Commission is not independent. Its failure to announce on the preliminary determination relative to Portadown District at the request of Government clearly proves this. It may be argued that any Government appointed body is likely to do the bidding of its political masters.

(e) The Commission is incapable of abiding by its own procedural rules in that it has not announced the determinations as promised.



(f) The Commission and the legislation provides for a "law breakers charter". The North Report stressed that legislation must "provide no encouragement for those who seek to promote disorder". Inevitably however the Commission will issue determinations based on the possible violent reaction of others to parades.

(g) The Commission is not representative of the Community and it has amongst its members some who have expressed very strong views on parades.

### **The Commission At Work**

In the determinations to date the Parades Commission have; issued contradictory statements, been inaccurate, shown little evidence of research, have taken decisions on parades because of perceived threats from others and determinations have not been consistent.

It is necessary to highlight only a few points in each category.

#### **(a) *Contradictory Statements.***

I. In the determination pertaining to Crumlin on 13th July 1998 it states "There will be disruption to the life of the community which is an inevitable aspect of a Parade on this scale".

In determinations where parades have conditions imposed it invariably cites disruption to the life of the community as a reason.

II. In relation to parades on the Ormeau Road a determination of 28 June stated that conditions still did not exist to enable a parade to take place.

A determination of 6 July approved a parade on the Ormeau Road on 13th July.

#### **(b) *Inaccuracies***

The Parades Commission in its determination to Portadown District L.O.L. No. 1 Church Parade to Drumcree Parish Church states that the parade is held on the Sunday before 12th July. It is not, - rather it is held on the first Sunday in July. A small but vital point in understanding the purpose of the parade.

In relation to Ballynafeigh the preliminary determination claims there is a lengthy history of opposition to parades on the Ormeau Road but goes on to say that until the early 70's the Ormeau Road was considered a Protestant area and that there are no records of formal protests at the parades prior to 1992.

#### **(c) *Lack of Research***

The Commission appears to have fallen into the trap of accepting evidence at face value.

In the context of Portadown the Parades Commission appear to have concerned themselves with socio-economic conditions as presented by the residents of the Garvaghy Road. There is no evidence of the Commission having attempted to ascertain the facts.

Determinations about Portadown since July do not take into account that proximity talks have taken place.

In the Ballynafeigh situation it is noted that talks took place in 1995 and that agreement had not been achieved. However there is no evidence of why this was.

**(d) Threats From Others**

The determination for Castlewellan on 13th July notes that those on parade have always behaved and there is very little disruption to the life of the community but the parade had restrictions imposed because of those opposed to the parade.

In Newry it is recognised that there is no evidence of public disorder brought about by the behaviour of those on parade but there has been incidents of disorder where some engaged in protest action clashed with the Police.

In Bellaghy reference is made to the disruption to the life of the community because of Police action necessitated by protest against the Parade..

**(e) Inconsistency**

The determinations regarding Portadown on 5 July and the Ormeau Road on the 13 July are inherently inconsistent. It is accepted that in relation to Portadown "It is a Church Parade, it has been demonstrated that it can take place in an orderly fashion and the Garvaghy Road is an arterial route".

The Ballynafeigh determination refers to a history of parades being associated with public disorder, considerable disruption to the life of the community, a significant adverse impact on relationships within the community and that some parades would not have measured up to standards in the Code of Conduct.

In the Ballynafeigh determination approving the parade quotes "there is now a clear emerging sense of deep hurt amongst loyalists which arise from our decisions to re-route. This is in danger of spilling over into a serious law and order situation which is harmful to both communities. We therefore cannot ignore the damaging effect that this will have on relationships within the wider community".

*Is this not also true of Portadown and a number of other areas?*

**The Way Forward**

If one is to consider how effective the Parades Commission has been you can only come to the conclusion that it has failed.

Civil Liberties have been denied. Community relations have deteriorated and the threat of violence by protest groups has been rewarded. The Commission should therefore be disbanded and the legislation set aside.

Obviously it is not sufficient to complain without putting forward alternatives.

As an organisation committed to civil liberty we would obviously favour a model based on the freedoms in the American Constitution and on the European Convention on Human Rights.

All roads should be open to all law-abiding citizens. No community owns any road, particularly if that road is the most direct route to a town or city centre. No group has any right to impede or harass any other group in the peaceful exercise of their civil rights.

If the state would exercise its lawful power to maintain such basic principles then no party need pretend to any feeling of alienation and all citizens would have equal rights.

Ultimately the police are the only people equipped to make a reasoned judgement on parades. No other body would be more acceptable and indeed another body could probably be less acceptable.

The police however must be given clear and unambiguous guidelines and these should also be made clear to the general public.

Those organising Parades should be responsible for the provision of marshals or stewards and take precautions to ensure the good conduct of the participants and in as far as possible, supporters. The police however, are ultimately responsible for ensuring that good behaviour in general is maintained and this should remain so. The police are also responsible for ensuring the free flow of traffic or necessary diversions. Of course this is also true for other events attended by large numbers of people such as sporting events.

Problems can be posed by parades which are politically motivated especially when the organisation concerned has not been engaged in processing along the route before. In such circumstances questions of acceptability and public order should be of greater importance than in respect of long established processions and should only be permitted when it has been determined that the proposed event has not been deliberately designed to provoke resentment or disorder.

If allowed such processions would need to fulfil very strict conditions. Flags, banners, or placards carried should not be such as to cause offence and as far as possible should be restricted to arterial routes and/or commercial districts. Disorder and misbehaviour by persons participating should necessitate further careful consideration by the police as to whether the procession could be repeated. So far as possible they should not pass through residential areas unless the overwhelming majority of the inhabitants are known to support those processing.

No new parade or demonstration should be permitted at a time or place where it is intended to, or may, in fact, clash with a traditional event.

The basic principle should be that law abiding citizens should be allowed to parade on their normal routes and not be diverted from them simply because a body of persons threaten violence.

When assessing whether a procession should be allowed on future occasions it should be the behaviour of those processing that is taken into account and this is of particular importance in the case of new routes and/or new bodies holding demonstrations and parades. Strictly speaking anything outwith this should be irrelevant.

When there is a measure of acceptance that in a free society men and women can protest, demonstrate and/or parade in a peaceful fashion and receive police protection while so doing then much of the problem would vanish.

This issue has prompted considerable discussion and careful consideration. The following suggestion has been put forward for the categorisation of parades and the general framework for dealing with each category. We believe this to be a very realistic suggestion.

### Parade Categories

- Class A* - Traditional Parades by Youth Organisations, Royal British Legion, Fraternal Societies e.g. Orange, Black, A.O.H. etc.
- Class B* - Occasional/special parade by Fraternal Societies.
- Class C* - Political, new routes, new bodies parading.
- Class D* - Cross community/social/civic/sporting/trade unions.

### Parade Approval

#### *Class A*

R.U.C. must guarantee free passage - possibly after the registration of a parade as traditional. This should include parades that previously have been re-routed and parades which follow a cycle of locations on established days.

#### *Class B*

Approval should only be withheld in extreme circumstances.

#### *Class C*

Only to be permitted on the circumstances where the R.U.C. can be fully satisfied that they are not designed to provoke disorder and/or damage community relations.

#### *Class D*

Free passage guaranteed.

Serious misbehaviour by participants in Classes A, B, and C should result in a review of the parade in question by the R.U.C.

In Classes A and B "participants" would be members of the organisation and the attending bands. In Classes C and D it would mean anyone whom the police know to be participating in the parade.

If our desire is to live in a multi-cultural society with mutual respect and toleration then we must uphold the basic rights of free expression and free assembly.

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