

FROM:

TERRY SMYTH
Parades Review Project Team
1 July 1997

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443/97

Mr Leach

ASST 5717
SEC - 2 JUL 1997
CENT SEC

cc: PS/PUS - O
PS/Sir David Fell - O
Mr Steele - O
Mr Thomas - O
Mr Bell - O
Mr Stevenson - O
Mr Watkins - O
Mr Maccabe - O
Mr Perry - O
Mr Priestly
Mr Clarke - O
Dr. Smyth - O
Mr Webb
Mr Carter - HOLAB

1. cc ~~Mr Leach~~
Mr Cameron

2. back to me, pl.

[Handwritten signature]

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DRUMCREE: STATEMENT BY SECRETARY OF STATE

Your two minutes of 30 June recorded the basis of the possible "deal" with the Portadown Orangemen.

2. Two of the elements of the deal pose no problem. The Government is already committed to introducing the provisions of the ECHR into domestic law, thereby establishing for the first time in British law a right of free assembly, from which may be inferred the right to march. In addition, we had already decided, subject to Ministers' agreement, to provide in the Bill that the range of factors to be taken into account by the Parades Commission when coming to a determination on any particular parade, should include the 'desirability of allowing a procession customarily held along a particular route to be held along that route.'

3. The third element of the deal, ie expanding the role of the Parades Commission is rather more problematic. The Annex to your first minute of 30 June, which recorded the text given to Mr Bingham, indicated that this broader remit would include 'consideration' of manifestations of each side's culture which is offensive to the other. From this I had

initially thought that this could be done by inserting, as an additional function of the Commission in Clause 2 of the Bill, a requirement for the Commission to review and make reports to the Secretary of State on any aspect of the way in which a particular section of the community expressed its cultural identity which the Commission considered may cause offence to another section of that community. However, I note that Mr Bingham's revised wording refers to the Commission having its remit extended 'to **take in** public manifestations of culture which are offensive or antagonistic to a large number of reasonable people'. It is not clear whether Mr Bingham expects the Commission to have some sort of 'executive' role in relation to public manifestations of culture, ie similar to that which it will exercise in respect of parades. I cannot see how this would work in practice and I have assumed, for the purposes of the draft statement, that the Commission's role will be restricted to considering these issues and reporting on them to the Secretary of State. The wording in bold on the second page of the draft statement was suggested by Alistair Graham.

4. I note also Mr Bingham's addition of the sentence 'Safeguards should be incorporated to ensure the Commission's mechanisms cannot be brought into play for spurious reasons.' I am not altogether clear what this means. Is the reference to 'mechanisms' related to the Commission's role on parades or is it something to do with its extended role?

5. It is not entirely clear to me what action the Secretary of State will be expected to take on receipt of reports from the Commission on this issue. Part of the Government's policy of 'parity of esteem' has been to facilitate the expression of Irish/Nationalist identity, for example, the support given to Irish language schools and other expressions of Irish culture such as music and dance and the change in the law to facilitate the erection of street names in Irish as well as in English. I have no doubt that these changes have been viewed by many in the Protestant/Unionist community as threatening to their own cultural identity - we hear complaints of being 'swamped' by 'Gaelic' culture. We will need to consider carefully the precise terms of whatever provision might be inserted into the Bill to deal with the way in which the Secretary of State responds to the Commission's report. For the purposes of the statement I have assumed that she will

wish to give an assurance that she will consider this report and, in consultation with the relevant interests, see what can be done to address the issues which have been raised.

6. We are also committed to re-naming the Commission. Given that the great bulk of its work will continue to be on parades, I feel that this word should continue to be part of the title of the body. Alistair Graham has suggested 'The Parades and Cultural Identity Commission for Northern Ireland'. This seems fine to me.

7. I attach a draft contribution to the Secretary of State's statement, addressing the three elements of the proposed 'deal'.

Signed

T. Smyth

DRAFT STATEMENT BY SECRETARY OF STATE

I would like to take this opportunity to re-state the Government's position on parades. The Government is not 'anti-parade'. Quite the reverse. The right peacefully to assemble and hold processions is a long established avenue for groups and individuals to articulate concern or express solidarity. It is protected by common-law and the European Convention on Human Rights. The Government is totally committed to the concept of freedom of assembly which we consider to be a fundamental civil and human right to be enjoyed equally by all citizens throughout the United Kingdom. It is for this reason that we are committed to the introduction into domestic law of the provisions of the European Convention. This will establish for the first time in British law a right to freedom of assembly, from which can be inferred the right to march. But this right will not be absolute. As is currently the case with the European Convention, the right of free assembly may be constrained where this is necessary for the prevention of disorder or for the protection of the rights and freedoms of others.

It is a fact that the great majority of parades in Northern Ireland are organised by the Protestant community. This is because that community regard the freedom to parade as an integral part of their civil and religious liberties. In particular, parading to church is valued as an emanation of Protestant culture and tradition and it follows that the Protestant community perceives any move to curtail parades as an attack on that culture. I know from my round of discussions with representatives both of the Loyal Orders and of the broader Protestant community that they see the recommendations of the North Report as threatening their cherished freedom to parade peacefully. They have expressed their concern to me that the remit of the North Review was too restrictive, in that it concentrated exclusively on a physical manifestation of cultural identity which is largely related to the Protestant community. They consider this to be inequitable and divisive and point out that, just as Nationalists contend that Orange parades are threatening and triumphalist, there are manifestations of Nationalist culture and life which Protestants and Unionists find offensive and intimidatory. I have already stated the Government's position on the right of free assembly. However, I have considered these points very carefully and I have concluded that there is indeed a case for an objective examination of

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Orangeism
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the issues. I think that the Parades Commission, building on the wide ranging discussions it has had across the community and the extensive range of contacts it has built up, is well placed to carry out this task. I intend, therefore, that the Bill which will be introduced in Parliament in the autumn will provide for the Parades Commission to have an expanded role. In carrying out its functions on parades, the Commission will also be charged with the statutory responsibility of drawing to my attention any other activity which the Commission has reason to believe has an adverse impact on relationships within the community. The objective will be to identify any particular aspects of the practical expression of identity on the part of one section of the community which another section feels to be threatening, intimidatory or otherwise offensive. The Commission will report to me and I will consider, in consultation with the representatives of both sections of the community, what might be done to address the issues identified in the Commission's report. Following this initial examination and report, the Commission will have a continuing statutory responsibility to keep these matters under review, with a view to making further recommendations to me as they consider appropriate.

To reflect this expanded role, the title of the Parades Commission will be changed to the Parades and Cultural Identity Commission for Northern Ireland.

In the course of my discussions with the Loyal Orders I have also been struck by the deep attachment which they have to the continuance of parades which have proceeded along the same route for very many years. Present day members of the Loyal Orders take great pride in participating in the same parade as their fathers and grandfathers before them and value greatly the continuity of tradition across the generations which they represent. In making its determinations the Commission will, as recommended by the North Report, take into account a range of factors including existing public order considerations and the new factor of the impact of the parade on relationships within the community. North also considered that the fact that a parade is long-standing should be one of the points to which the Commission would have regard in reaching a judgement on each individual case. I have concluded therefore that the Commission will, alongside the other factors, also be required to take into account the desirability of traditional parades proceeding along their customary routes. I hasten to add that this does not mean

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there is an overlap.

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that these parades will be guaranteed a free passage. It will be a matter for the
Commission, in any particular case, to weigh up all of the factors, including that related
to traditionality, before reaching a conclusion.