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3/12/98

The impact of the Parades Commission and new legislation on the marching issue

1. Background

Following the events at Drumcree and on the Lower Ormeau Road in July 1996, the British Government instituted a review of the parades issue. This review led to the publication of the North Report in January 1997, which recommended the creation of a Parades Commission to arbitrate on contentious parades after a "transparent process of examination of all of the relevant issues". LOCC welcomed the North Report recommendations as an attempt to move away from the public order approach to parading which has proved so disastrous in the past.

A Parades Commission was appointed by the former Secretary of State, Sir Patrick Mayhew, and this Commission will make decisions about parades in 1998, within the terms of a set of Procedural Rules and Guidelines recently enacted by the British parliament.

2. The Parades Commission

While LOCC is supportive of the general idea of a Parades Commission, we feel that the integrity of the current Commission has been undermined by the activities of its Chairperson, Alastair Graham.

Following the forcing of the Orange Order parade down the Garvaghy Road on July 6th 1997, a confidential document leaked from the Northern Ireland Office (NIO) showed that the decision had been secretly made by the British Government as early as June 20th 1997 that the parade would go ahead despite the objections of the residents of the Garvaghy Road. The British Government had previously maintained that the decision to force the parade down the Garvaghy Road was only made at the last moment. The leaked document – which was drawn up by the Assistant Director for Policing and Security at the NIO – states that "the consensus among the key players – the Secretary of State, the Minister of State, the Chief Constable, the GOC, *the Parades Commission Chairman* [our italics] – is that, if there is no local accommodation, a controlled parade on the Garvaghy Road is the least worst outcome".

Although the Parades Commission was in existence in July 1997, it was not supposed to make recommendations on parades until new legislation was enacted in 1998. Alastair Graham has always denied having any part in the decision-making process in relation to the Garvaghy Road parade in July 1997. We have therefore asked him to explain why he is described as a "key player" in the leaked document. We have questioned whether anyone involved as a "key player" in such a secretive decision-

making process can now be trusted to operate with the impartiality and transparency required of a effective Parades Commission. How can nationalists have confidence that the arbitration process to be engaged in by the Parades Commission in 1998 is not merely a charade to mask the fact that the critical decisions have already been taken?

We have also asked how nationalists can be assured that Mr. Graham will consider all alternatives – including re-routing of parades - given his declaration in a television interview that “if you can’t get dialogue in places like Drumcree then we have to develop a position that will allow possibly the smallest parade to take place” (May 14th 1997). Our interpretation of this is that Alastair Graham will not consider re-routing parades as a possible solution in areas of contention. Mr. Graham has not offered any explanation of how his actions and comments are consistent with his position as the supposedly impartial Chairperson of a Parades Commission.

Concerns about the Parades Commission were further heightened in February 1998 by the appointment to the Commission of four people whose ability to operate in an independent and impartial manner is questioned throughout the nationalist community. Among the appointees is Tommy Cheevers, a leading member of the Apprentice Boys who has marched with the Ballynafeigh Apprentice Boys on Belfast’s Ormeau Road. Mr. Cheevers formerly belonged to the same Orange Lodge as UVF commander John Bingham and notorious loyalist George Seawright. As an Apprentice Boy, Tommy Cheevers has consistently refused to reply to or even acknowledge letters from Lower Ormeau residents seeking to discuss the marching issue. Now he has the power to decide if his fellow Apprentice Boys can march on the Lower Ormeau Road in 1998. Another appointee is Glen Barr, an ex-UDA commander and member of Vanguard who was on the controlling committee of the UWC strike in 1974, which brought down the nationalist/unionist power-sharing executive. Mr. Barr has admitted that he sought and received the approval of the loyalist paramilitary organisations before accepting the appointment.

To rub salt in the wounds, when it came to “nationalist” appointees the British Government chose to ignore two nominees from the Irish Government and instead appointed a senior partner in a firm of solicitors retained by the RUC’s Police Federation and a barrister who was for six years a member of the Police Authority, a body on which no nationalist will sit.

We believe that the Parades Commission as currently constituted cannot claim to be independent and impartial and that its decisions in 1998 will carry even less respect than the flawed decisions made by the RUC in previous years. It seems certain that the Parades Commission will fail in its central task of preventing the types of serious confrontation that have accompanied parades over many years.

3. Guidelines for the Parades Commission

Despite our serious concerns about the ability of the current Parades Commission to operate impartially, we believe that under the proposed guidelines no decision other than the re-routing of parades away from the Lower Ormeau Road area is reasonably possible. We will examine each of the guidelines as they apply to the Lower Ormeau Road.

"Decisions should be proportional to the issues at stake"

Marching has never been exercised with proportionality on the Lower Ormeau Road and has involved the denial of the human rights of residents, the beating of residents and the virtual house arrest of the entire local population for long periods of time. It cannot reasonably be argued that the RUC operation of 11th/12th July 1996, when residents were refused permission to leave their streets – and in some cases homes – and denied access to friends, relations, shops, amenities and even hospital treatment for up to 27 hours, was proportional to the supposed right to march being exercised by the Orange Order.

"The Commission should have regard to any previous failure to comply with the Code of Conduct"

Following clarification from the Parades Commission, we know that behaviours prior to the implementation of a formal Code of Conduct are to be included under this guideline. On the Lower Ormeau Road in July 1992, Orange marchers danced and jeered outside Sean Graham's Bookmakers, where five local Catholics had been murdered by loyalist paramilitaries the previous February. The marchers taunted local residents with five-finger gestures and sectarian chants. The then Secretary of State, Sir Patrick Mayhew, said that the behaviour of the Orange Order marchers that day "would have disgraced a tribe of cannibals". The years since then have seen many other instances of abuse, including the Apprentice Boys member who imitated the action of firing a machine-gun as he passed Sean Graham's in August 1995 (documented in national newspapers at the time). We have witnessed both before and since 1992 many examples of marchers abusing, provoking and expressing their hatred of residents; of loyalist paramilitary trappings; of mockery of the dead and injured victims of loyalist violence; and of sectarian chants and tunes.

"The Commission should have regard to the disruption of the life of the community"

The lives of the Lower Ormeau Road residents are severely disrupted by parades during the "marching season" which runs from Easter until October. Not only do we have the physical disruption resulting from the sealing off of the area to facilitate the parades, but we also have the tensions for long periods before and during the parades and the very real hurt caused within a tightly knit community by the abuse associated with these marches.

"The Commission will take into account the demographic balance in the area"

In an independent survey carried out in 1996 by the respected firm of consultants Coopers & Lybrand, 95% of Lower Ormeau residents expressed the belief that marches by the loyal orders should not be allowed to pass through the area. 91% expressed the belief that the sectarian nature of parades lies at the root of the problem of contentious parades. The Lower Ormeau Road area is overwhelmingly nationalist/Catholic and should not be subjected to parades by organisations that are openly sectarian and anti-Catholic.

"The Commission will take into account the presence of sites associated with past events which give rise to sensitivity within the community"

Everyone is aware of the very real sensitivities associated with Sean Graham's Bookmakers following the murder there of five local people in 1992 and the subsequent Orange abuse of the dead and injured and their families. The bereaved

and injured have all written to the Orange Order urging that marches should be re-routed away from the area.

"The Commission will take into account the availability of alternative routes"

The Cregagh Road, Ravenhill Road and Sunnyside Street are all viable alternative routes, yet it has been our experience that parade organisers will file to march along the Lower Ormeau Road even when their destination lies in a completely opposite direction. The majority of marchers and bandsmen in any parade do not even live on the Ormeau Road.

"The Commission will look for evidence [on the part of parade organisers] of a real attempt to address the concerns of others"

The Orange Order, Apprentice Boys and Black Preceptory will not respond directly or indirectly to any communication from LOCC; nor will they present any arguments to LOCC; nor will they agree to any meeting to discuss any aspect of parading. In June 1997, the Grand Lodge of the Orange Order decreed that parades, parade routes and venues are non-negotiable and bound its membership to adhere to this.

4. Traditional routes

The Guidelines propose that the Parades Commission "will in particular take into account the extent to which the proposed route is long-standing" (Section 6.1). We believe that this is a fundamentally wrong principle on which to base decisions in relations to parades. It ignores the fact that marching traditions were built up primarily during the Stormont and direct rule eras, when unionist marches were actively facilitated and nationalist rights were totally ignored. To lend weight to these traditions is to endorse the discriminatory practices that created those "traditional" marches in the volumes that we have today. It also misses the point that nearly all contentious parades are long-standing and that in fact the long-standing nature of the abuse and provocation associated with those parades has created the situations of contention and confrontation in the first place. As Brid Rodgers of the SDLP said "So-called traditional routes are the product of sectarian coat-trailing of previous generations. They are based on an inequality of power between the two communities, exercised irresponsibly and with total disregard for the existence, let alone the rights, of nationalists".

Reference to tradition is not found in any of the international conventions that address the issues of freedom of expression and freedom of assembly.

5. The role of the RUC

We are very unhappy about the role to be played by the RUC in making decisions about parades and in policing those decisions. The RUC is not an impartial force. A significant proportion of its members are themselves members of the Orange Order and an Orange Lodge actually exists within the RUC. Its ethos and composition is overwhelmingly unionist and it has consistently shown itself to be incapable of policing parades in a fair manner. On many occasions RUC officers have used lethal force against nationalists in order to accommodate Orange parades. The Procedural

Rules, Guidelines and Code of Conduct do not take account of the partisan nature of the RUC and its past failures in relation to the marching issue.

According to the Procedural Rules (Section 3), the RUC will make submissions in secret to the Parades Commission. We believe that submissions by the RUC must be made public. In 1997, the RUC used a loyalist threat to justify the Garvaghy Road parade going ahead. Impartial commentators cast doubt on the reality of this threat and questioned the seeming powerlessness of the RUC in the face of this threat. In future, the RUC should not be allowed to give secret security assessments without being made to stand over those assessments.

Under the new legislation the RUC will be able to overturn decisions made by a Parades Commission. This is completely unsatisfactory and flies in the face of the rationale behind setting up a Parades Commission in the first place. It allows the Orange Order to create public order situations knowing that in the past the outcome of these situations has been in its favour.

6. The Code of Conduct

LOCC has no difficulty with the Code of Conduct that has been introduced as part of the new legislation, and it is worth stating that our protests have always been peaceful. We do not believe that a Code of Conduct will have any effect on Orange marchers, given that existing legislation in relation to incitement to hatred and public consumption of alcohol has never been used by the RUC against Orange marchers.

We are also fearful, particularly in the light of remarks made by Alastair Graham, that the current Parades Commission will restrict itself to imposing superficial conditions relating to conduct on parade organisers and will not order the re-routing of parades in situations like the Lower Ormeau Road. We believe that this would be a completely improper exercise of the powers of the Parades Commission.

7. Conclusion

We believe that we have presented an irrefutable case for the re-routing of sectarian parades away from the Lower Ormeau Road area. Despite this, we do not believe that we will receive the justice that our community yearns for and deserves. A decision making process involving the fatally-flawed Parades Commission, the RUC and the British Government will never side with nationalists against the Orange Order, regardless of the strength of our case.

We need the support of all right-thinking people at home and abroad. We ask you to make your voice heard in support of our reasonable demand for the re-routing of sectarian parades. The Guidelines under which the Parades Commission must operate are measurable and quantifiable. Any decision that the Commission makes can be objectively assessed on the basis of those Guidelines and we urge our friends to publicly challenge any attempt to force parades on our community.

We welcome observers into our community. It has been our experience that observers – and high profile observers in particular - serve a dual role. By their very presence they protect us from the worst excesses of the RUC. They are also able to carry the true story of what Lower Ormeau residents endure as a result of these sectarian parades back to their own communities and countries and this process of information and education is invaluable.

If you would like further information about LOCC and the marching issue please contact us at: LOCC, 156 Ormeau Road, Belfast, Ireland. Tel/Fax 00 44 (1) 232 231752. E-mail jpgormley@compuserve.com.



The Parades Commission



Presentation to

Larry Butler

Washington, March 10 1998



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The Events of 1996

- Drumcree 1996
- The Cost
 - Massive public disorder across Northern Ireland
 - Families re-housed
 - Increasingly polarised communities
 - Financial cost around \$50 million
- Government's response - The North Review

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The North Report

- Wide consultation September 1996 - January 1997
- Northern Ireland-wide survey on parades and associated disputes
 - 88% in favour of negotiated accomodation
 - 79% in favour of binding decision by third party in absence of agreement, of which.....

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The North Report

- 49% favoured an independent commission
- 29% for the police
- 11% said the Secretary of State
- 6% were for the judiciary
- 6% were for others
- The Report made 43 recommendations
- The key one: establishment of a Commission

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The Parades Commission

- Established March 26, 1997
- Independent body appointed by the Secretary of State for Northern Ireland
- Limited remit for 1997
- The Public Processions Act, based on the recommendations of the North Review, now law

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The Public Processions (Northern Ireland) Act 1998

- Gives Parades Commission power to regulate parades
- The Statutory Documents:
 - Guidelines
 - Procedural Rules
 - Code of Conduct

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The Act

- Introduces a new range of criteria for making decisions:
 - Public disorder
 - Disruption to the life of the community
 - Impact on relationships within the community
 - Compliance with the Code of Conduct
 - Tradition

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What has changed?

- Police no longer take initial decisions
- Public Order now only one of a number of factors to be balanced in the decision
- A more analytical approach
- Transparency of procedures
- Authorised Officers of the Commission
- Preliminary view

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Some popular misconceptions

- ‘the Commission is not independent’
- ‘its really a “no parades” commission’
- ‘ the Commission is pursuing a Unionist agenda’
- ‘its following a Nationalist agenda’
- ‘there are no constraints imposed on parades elsewhere in the country’

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Evidence Gathering

- The following themes recur:
 - Predominantly Nationalist locations
 - Demographic changes
 - Orange halls and ‘traditional’ routes
 - Perceptions and fears
 - Lack of dialogue



The Parades Commission



A NEW OPPORTUNITY

