

FROM: RUTH OSBORNE
ANGLO-IRISH SECRETARIAT
23 July 1996

RO/34450/96/et

Mrs Seaw 24/7

for our
pages.DESK IMMEDIATE

cc PS/Sir J Wheeler (B&L)
PS/Michael Ancram (B&L)
PS/PUS (B&L)
PS/Sir David Fell
Mr Thomas
Mr Bell
Mr Legge
Mr Stephens
Chief Supt Sillery RUC HQ

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PS/Secretary of State (B&L) - B

DRAFT INTERNAL PLENARY RECORD OF THE ANGLO-IRISH CONFERENCE HELD IN
LONDON ON 18 JULY 1996 - IC(96)4

I attach the draft Internal Plenary Record of the IGC held in London
last Thursday.

2. I would be grateful for any suggested amendments or comments by
Thursday 25 July, if possible.

RUTH OSBORNE

INTERNAL PLENARY RECORD OF THE INTER-GOVERNMENTAL CONFERENCE HELD IN
THE OLD ADMIRALTY BUILDING, NIO, LONDON ON 18 JULY 1996

Present

British Side

Sir Patrick Mayhew
Sir John Wheeler
Michael Ancram

Irish Side

Mr Dick Spring
Mrs Nora Owen

Officials

Sir John Chilcot
Sir David Fell
Chief Constable Sir Hugh Annesley
Mr Quentin Thomas
Mr Michael Legge
Mr Jonathan Stephens
Mr Richard Clarke

Mr Padraic MacKernan
Mr Tim Dalton
Garda Comm., Designate Mr Pat Byrne
Mr Sean O'hUiginn
Ambassador Ted Barrington
Mr Fergus Finlay
Mr Val O'Donnell

Anglo Irish Secretariat

Mr Peter Bell
Mr John Fisher
Mrs Ruth Osborne

Anglo-Irish Secretariat

Mr David Donoghue
Mr Steve Magner
Mr Michael Tierney

In Attendance

Mr Martin Howard
Chief Supt Gerry Sillery
Mr Donald Lamont

In Attendance

Mr Colm O'Floinn
Mr John Brosnan
Mr Philip McDonagh
Mrs Linda O'Shea-Farren
Mr Christy O'Shea

The Conference commenced at 1615 hours with Political Talks in restricted numbers. There then followed the Restricted Security Session. The Plenary Session commenced with a further political discussion, described as a Restricted Session, though conducted with everyone present except the Chief Constable. The two Political Sessions are recorded separately. The Conference concluded about 2100 hours.

CONFIDENCE ISSUES

Implications of Parades and future Outlook

2. The Secretary of State invited the Chief Constable to describe the events leading up to the operational decision to allow the Orange Order to parade down the Garvaghy Road on 11 July, following the re-routing Order imposed the previous Saturday.

3. The Chief Constable gave a detailed presentation of the events. He explained that since the previous summer, the police had been trying incessantly to obtain an accommodation between the Garvaghy Road Residents Association and the Orange Order. So much so that he had himself met with the Residents Association himself in January 1996 and attended a meeting with Martin Smyth and DCC Flanagan as recently as 1 July. DCC Flanagan had also attended subsequent meetings. In referring to the difficulties in reaching an accommodation, the Chief Constable said that the Garvaghy Road Residents Association had been incensed by what they perceived as scenes of triumphalism following the accommodation reached last year and they were outraged that the Orange Order had rebuffed their approaches to discuss the matter. The Orange Order had refused to speak to the Association because their spokesperson, Mr Brian McKenna, had a previous conviction for terrorist offences. In handing over a copy of a map of the area, the Chief Constable explained that one proposal the police suggested as an accommodation was that the parade on its return route from Drumcree church would march down only about one third of the Garvaghy Road, and turn right across to the route it had originally come. The other option was, of course, that the Orange Order returned from the church service the same route as it had come. However, neither side showed any sign of accommodation, with the Residents Association giving notice that they wanted to march the same day the entire length of Garvaghy Road starting in the opposite direction. There was also an indication that an Irish festival would take place in the area on the day of the parade. The Chief Constable went on to explain that he was in no doubt that public disorder would ensue should the

parade go ahead, and that he anticipated crowds from other parts of Northern Ireland coming to support the residents of the Garvaghy Road, as well as violence elsewhere. The Chief Constable also considered that there was likely to be an Orange Order stand-off at Drumcree and possibly some loyalist protests elsewhere, but nothing like the violence that had developed. With all the information available at that time, the Chief Constable considered that on balance the parade should be re-routed. This decision, he emphasised, was an operational one as well as an impartial and moral one, and was made with no political direction.

4. With regard to the disturbances following the re-routing order, The Chief Constable went on to explain, the RUC's primary aim was to protect the lives of both communities, whilst at the same time keep roads, harbours and airports open wherever operationally possible. There had been a whole series of incidents, sporadic and wideranging, including marches, road blocks, fires, assaults, while increasing crowds were converging at Drumcree, where an attempt to breach the wire with a bulldozer was made. There were also indications that a slurry tanker filled with petrol might be used to force through the wire, and information to suggest that loyalist paramilitaries would use grenades. At this point in the presentation, the Chief Constable showed a photograph of the protesters along the wire, with a known paramilitary, Mr Billy Wright, clearly visible. He indicated that there were also other known paramilitaries in the crowd. He said that paramilitary involvement on both sides had played a significant part in preventing an accommodation being reached on marches, not only on Garvaghy Road, but at other flashpoint areas, such as the Lower Ormeau Road.

5. The Chief Constable went on to explain that on 10 July, the four church leaders worked through the night to attempt to reach agreement, but despite their strenuous efforts, concluded the following morning without an accommodation. The Chief Constable said that he had spoken personally to Cardinal Daly on the Wednesday evening and twice the following morning, who confirmed that no accommodation had been reached. By that stage, it was clear that

a massive crowd of 50-60,000 people, with hostile elements, and many under the influence of alcohol, would breach the wire at Drumcree, the other side of which the homes of the residents of the Garvaghy Road, 98% of whom were Roman Catholic, were only 300 metres away. The Chief Constable indicated that he feared the development of a grave situation involving serious injury and death of those protesting, his police officers, and most of all of the residents of the Garvaghy Road. He concluded that the only way of stopping such a massive hostile crowd could only be by the use of lethal force. The Chief Constable emphasised that he had been left with no choice but to force the parade down Garvaghy Road, in the interest of the protection of life. He added that he had considered blocking off all the routes into Portadown to prevent the crowds swelling at Drumcree. However, from past experience, such methods had proved ineffective, with individuals continuing on foot. He repeated that he had been left with no choice but to push the parade through. Following a relatively short period which it took to get the march through, the police were then immediately faced with a barrage of petrol bombs which, he said, must have been prepared in advance.

6. Remarking on those who had apportioned blame, the Chief Constable said that there was no doubt that blame for the deadlock lay with the Orange Order and the Residents Association of the Garvaghy Road, and the lack of effective leadership by local politicians. The Chief Constable then read out some press reports of comments made by:

- The Rev. Martin Smyth: "..... if the security forces can block roads so can we....."
- Peter Robinson MP: "..... the battle for the liberty of the Unionist people....."
- Rev Ian Paisley: ".... the situation had become a powder keg"

- Mr John Taylor: " bring the army in to remove Orange Protesters would ignite Northern Ireland....."

He added that responsibility for the violence lay firmly on the shoulders of those who carried it out.

7. The Chief Constable recognised that the rule of law on this occasion had suffered a temporary loss, which he was distinctly unhappy about, but he stood by his decision which was wholly justified in the circumstances, as was his original decision, which was based on law. The Chief Constable emphasised that there must be an accommodation to avoid any recurrence of these sad events, but no police force could provide a solution. There had to be a willingness on the part of those involved for a compromise and effective leadership of politicians from both sides. He concluded his presentation by indicating that he hoped that every effort on the part of all those involved would be made to avoid such a recurrence during the forthcoming Apprentice Boys parade scheduled for 10 August.

8. The Tanaiste agreed with the Chief Constable that these were indeed sad events, which he commented, had been discussed at length during the Conference, and that an accommodation had to be reached. The Irish side had recognised that the problem associated with parades was a reflection of a deep-rooted division between the two communities, and that a political solution was necessary.

9. He added that the Irish side had a number of questions in relation to the incidents of recent days. He asked what were the implications for future parades; would there be prosecutions as a result of the disturbances; and was it the case that the force of numbers dictated the resilience of law and order and how it was maintained.

10. In referring to the latter query, the Chief Constable pointed out that in the short term large numbers of people could not be controlled against their will, unless lethal force was used. This

had proved to be the case not only in Northern Ireland, but also in Dublin when the Garda stood by as a large crowd burned the British Embassy to the ground in 1972. Reading from a newspaper extract, the Chief Constable said that a Dail member, referring to the loss of the rule of law then, had stated "it was a small price to paythere was no force in this land that could have stopped them." There has also been other crowd control incidents where the temporary loss of the rule of law had occurred, such as in Lyon, Tottenham.....

11. With regard to the implications for the future, the Chief Constable said that all the indications for the Apprentice Boys parade in Londonderry on 10 August were that there could be two opposing crowds of about 5,000 on each side. If no accommodation was reached, the police would have to close either side of the bridge, and prevent the mayhem from spreading as much as possible. But, he reminded the Irish side, some 3,000 parades take place each year with only 10 to 16 causing disorder, and 6 parades had been re-routed on the Ormeau Road this year.

12. Mrs Owen then raised a number of queries which the Chief Constable addressed, as follows:-

- (1) Could the build-up of violence which occurred across Northern Ireland not have been avoided?

The Chief Constable repeated that the police were faced with a very difficult task of dispersing widespread disorder, keeping roads open and policing the Drumcree stand-off, which was swelling all the time. He emphasised that, although the RUC had suffered a setback within the nationalist community, they had acted impartially. He pointed out that the Garvaghy Road and Ormeau Road parade in particular had been hijacked by PIRA/Sinn Feinn; if there was no accommodation by the two communities, death would be an inevitable consequence for the future.

- (2) The Irish understood that the four church leaders had not concluded their negotiations when the Chief Constable had made his decision. Was this not the case?

The Chief Constable said that although there was some report of a police deadline - 10.30 am had been mentioned - this was not the case. He reaffirmed that he had spoken to Cardinal Daly on the Wednesday evening and twice on Thursday morning, when it was clear that no accommodation could be reached.

- (3) At which stage does the Public Order (NI) Order 1987 require the Chief Constable to inform the Secretary of State of his decision?

- (4) At what point should the Chief Constable's operational responsibility allow him to look for political direction from the Secretary of State?

The Chief Constable confirmed that under the Public Order (NI) Order 1987 he can ask the Secretary of State to ban a parade, but, he added, there was little point in taking this action if it resulted in having to police the ban. The Chief Constable also confirmed that on this occasion he did brief the Secretary of State on the matter, but the legislation did not require him to do so.

- (5) Would there be prosecutions in relation to the breach of the re-routing order; and what were the police views on the media coverage of scenes which implied that batons were only being raised against nationalists, and not loyalists?

The Chief Constable indicated that approximately 300 arrests had already been made in relation to recent disturbances, and videos were still being scanned for further evidence. The Chief Constable pointed out that the widely

publicised scene referred to showed an RUC Inspector trapped underneath the individual being hit. He explained that batons were being used on that particular occasion because there was no need to use PBRs, a large number which had already been fired against the Orange Order protestors at Drumcree earlier in the week, as had been the case also the previous year. Batons had also been used against loyalists earlier in the year during the disturbances on the Lower Ormeau Road. He added that the Irish side would also recall that the serious disturbances carried out by loyalists during 1992/3 were met with determined action by the police, which resulted, inter alia, in the arrest of a leading UFF member, Mr John Adair.

13. The Tanaiste commented that the residents of the Garvaghy Road had shown a willingness last year to compromise; they were now angered, as were the residents of the Lower Ormeau Road, and Londonderry, that they were being portrayed as paramilitaries. In response, the Chief Constable said that there was no suggestion that the totality of the residents of Garvaghy Road were pro-PIRA. It was the leading and active role of Mr Brian McKenna, and also Gerard Rice on the Lower Ormeau Road, which had caused difficulties in the negotiations. PIRA on the ground had given clear instructions that there should be strong resistance. There was no doubt about this. The Chief Constable then handed over a copy of a leaflet which had been circulated by Sinn Fein round West Belfast, which, he said, was clearly designed to heighten tensions. He assured the Irish side that if the PIRA/Sinn Fein were not involved, the residents on the Lower Ormeau Road, for example would not object to a non-triumphalist parade taking place early in the morning. He added that a female nurse in that area who had recently spoken out against Sinn Fein's involvement had had her car badly damaged.

14. Mrs Owen then enquired whether the loyalist paramilitaries were taking over the Orange Order, to which the Chief Constable replied that there was no doubt that loyalist paramilitaries played a major part in failure within the Orange Order to

reach an accommodation, with Mr Billy Wright taking a leading active role.

15. Mr O'hUginn then intervened to return to queries about the timing of the Chief Constable's second decision and when the 4 church leaders had concluded their negotiations. He also enquired about the alleged promise made by the police the previous year to the Garvaghy Road Residents. The Chief Constable confirmed that DCC Flanagan would not have made such a promise. He said that there had been press speculation that some sort of deal was being struck following David Trimble's meeting with the Prime Minister on the Tuesday and the 4 church leaders negotiations which commenced on the Wednesday. The Chief Constable said that he hoped the Irish side were not suggesting that he had reached his decision on Wednesday whilst negotiations between the church leaders were still in progress. No decision was made until Thursday morning when it was clear that the church leaders had not reached an accommodation. The Chief Constable, Secretary of State and Michael Ancram all indicated that both Cardinal Daly and Archbishop Eames had been in contact with them on the Wednesday evening, and on Thursday morning when they had concluded that no accommodation could be reached. The Chief Constable assured the Irish side that had there been any sign whatsoever of progress on the Thursday morning, he would have waited, but this was not the case.

16. Mrs Owen commented that the legislation served little purpose if the Chief Constable had to renege on his original decision, and there was no provision for a political direction. The Secretary of State pointed out that as the Chief Constable had already stated, there was little purpose in the police seeking the banning of a parade if they then had to police the ban. The Chief Constable added that the Order was widely used, with many parades being re-routed. However, what the legislation did not do, and no legislation could, was impose a will on the people.

17. Mr Dalton commented that the perception in the minds of nationalists was that the police had allowed mob rule to get their

way. He enquired whether the Chief Constable had any advice to give to reassure nationalists. The Chief Constable recognised this as being a perception but such perceptions work both ways. He stressed that he makes strenuous efforts to be impartial. He pointed out that the funeral of Mr McShane the previous week, during which thousands of people were in attendance, was handled with sensitivity, and there have also been parades/processions involving huge numbers in West Belfast with minimum police intervention. He stressed that what was shameful about what happened in recent weeks was the scale of numbers of people prepared to take to the streets and the lack of constitutional political direction.

18. Mr Dalton enquired whether the loss of the rule of law was likely to have an effect within the ranks of both the police and army. The Chief Constable said he had made the second decision because he was not prepared to risk a single life and that was absolutely the correct decision. There was not a morale problem and the loss of the rule of law was a temporary one.

19. The Tanaiste concluded discussion on this item of the agenda by recognising the difficulties in policing parades. The police had suffered a setback as a result of recent events, but at the end of the day minds needed to be focused on a review of the whole parades issue, which needed a political steer.

Ways of enhancing Public Confidence in the Security Forces.

20. In referring to the recently announced review commission on parades, the Secretary of State said that after careful consideration it had been decided that on balance the setting up of a body to adjudicate or arbitrate as to whether a parade should go ahead or not would not resolve matters. However, as announced, an independent commission to review the policy of parades would be set up. The Secretary of State then read out its remit, attached at Annex A. He explained that the body would comprise 3 to 5 individuals, who had not yet been selected, and indicated that suggestions from the Irish side would, as always, be welcome. In

response to a query from Mrs Owen, the Secretary of State said that it was hoped that the body would report as quickly as possible, but that this could not be before the Apprentice Boys parade scheduled for 10 August. Mr Legge added that, as the Secretary of State has already indicated, the body was tasked to review the policy on parades, and would not be considering the routes of individual parades.

21. Returning to the issue of the use of PBRs, the Tanaiste enquired whether the use of huge numbers of PBRs fired during the nationalists riots were necessary. He commented that the feeling amongst nationalists was that these were substantially larger than those fired during the Orange Order Drumcree stand-off. The Chief Constable pointed out that the Security Forces respond to the nature and level of attack and not who was attacking. 30 PBRs were fired during petrol bomb attacks on the Garvaghy Road, though a considerably larger number had been fired earlier at the Orange Order stand-off. It had to be said that the worst violence confronted by the Security Forces took place in nationalist areas in Londonderry and Belfast, which included gunfire. The Tanaiste said that it would be useful to have details of the number of PBRs fired and, in response to a point made by Mr Legge, also for a comparative breakdown of the number of petrol bombs thrown. Mr O'hUiginn also commented about the extent of some of the injuries, and the Tanaiste about the incident in the casualty department of Altnagelvin Hospital. The Chief Constable said, in confidence, that he had asked HMI to investigate the circumstances surrounding incidents involving some individuals who had been hit on the head or upper body. With regard to Altnagelvin, he was still awaiting a detailed brief. The Tanaiste indicated that he would pursue these matters further. The discussion on parades then concluded and the Chief Constable and Chief Superintendent Gerry Sillery left the Conference.

(Signed)

RUTH OSBORNE
July 1986

Restricted Political Discussions - Reconvened

22. There then followed a short summing up of the previous two sessions on political discussions in restricted numbers (the record of which has been circulated separately by PS/Secretary of State).

23. The Tanaiste said that he had spoken during the course of the Conference on the telephone to Senator Mitchell about the suggested informal meeting of both Governments on Monday morning. He reported that Senator Mitchell had already invited the parties to a full plenary session that day, and said he could not go back on this. If this is to be the case, both sides would need to work over the weekend in persuading Mr Trimble and Mr Hume to press for agreement on procedures and agenda before the summer break, which was the very best progress that could be made in the timescale available. The Secretary of State agreed on the latter. Michael Ancram said that the PUP/UDP were very anxious about the implications of there not being any advancement in the Talks process soon. Mr Thomas indicated that he understood that when the DUP met the Chairman recently they had indicated their intention to press ahead and agree procedures before too long. Discussions concluded with both sides agreeing to use whatever influence possible on the parties to agree procedures as soon as possible.

COMMUNIQUE

24. The Draft Communique was discussed and suggested amendments agreed. This is attached at Annex B.

25. The Conference concluded at 2100 hours.

(Signed)

RUTH OSBORNE

July 1996

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DRAFT TERMS OF REFERENCE

To review, in the light of evidence received from any interested party, the current arrangements for handling public processions and open-air public meetings in Northern Ireland including

- ° the adequacy of the current legal provisions, and in particular the adequacy of the statutory criteria used in making decisions on public processions and open-air public meetings
- ° the powers and responsibilities of the Secretary of State, police and others
- ° the possible need for new machinery, both formal and informal to play a part in determining whether and how certain public processions and open-air public meetings should take place
- ° the possible role for, and composition of Codes of Practice for organisers of and participants in public processions and open-air public meetings

and to make recommendations.

3. The Conference reviewed the serious deterioration in the situation in the aftermath of the decisions taken in relation to recent parades.
4. Both sides condemned the widespread violence, intimidation and damage to property visited upon both communities over the past fortnight.
5. They recognised the urgent need to rebuild confidence in the wake of these developments and reaffirmed the primacy of the

JOINT STATEMENT

ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE

LONDON, 18 JULY 1996

1. A special meeting of the Anglo-Irish Intergovernmental Conference was held in London on 18 July 1996. The Irish Government was represented by the Joint Chairman, Mr Dick Spring TD, Tanaiste and Minister for Foreign Affairs, accompanied by Ms Nora Owen TD, Minister for Justice. The British Government was represented by the Joint Chairman, the Rt Hon Sir Patrick Mayhew QC MP, Secretary of State for Northern Ireland, accompanied by the Rt Hon Sir John Wheeler MP, Minister of State and the Rt Hon Michael Ancram MP, Minister of State, Northern Ireland Office. The Chief Constable of the Royal Ulster Constabulary and the Commissioner designate of the Garda Siochana were also present.
2. The meeting was called at the request of the Irish Government.
3. The Conference reviewed the serious deterioration in the situation in the aftermath of the decisions taken in relation to recent parades.
4. Both sides condemned the widespread violence, intimidation and damage to property visited upon both communities over the past fortnight.
5. They recognised the urgent need to rebuild confidence in the wake of these developments and reaffirmed the primacy of the

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political process as the means of achieving this. They underlined their absolute determination to do all in their power to achieve progress through the current political talks and to help bring about a comprehensive political settlement, an essential component of which is parity of esteem for both the nationalist and unionist communities.

6. The two Governments believe that there is no alternative to the resolution of differences around the negotiating table. They consider that, with sufficient determination and commitment on all sides, it should be possible to make sufficient progress in the multi-party talks which would enable substantive negotiation to commence in the very near future. They called on all participants to join with the two Governments in playing their full part in facilitating this.

Secretary of State (LSE) - 5

18 JULY: FOLLOW-UP IN DUBLIN

1. You might welcome a readout of where things stand in Dublin following last week's IGC meeting. The following is based on a number of contacts we have had here, both with members of the Irish delegation to those talks, and with the likes of Paddy Tashon (with whom I had breakfast this morning).

IGC: Reactions

2. Much as we anticipated, the flavour of the Irish press reporting was that of "agreement to disagree", based in large part on background briefing by O hUiginn. Nevertheless, there appears to be a general sense here that the talks in London on 18 July went a considerable way to getting the bilateral relationship back on track. Finlay (Labour Party) said that the Taoiseach saw the episode in terms of the "mutual incomprehension" that periodically besets Anglo/Irish relations (which is longhand for saying that any differences are not being taken too tragically) while Tashon said that the Prime Minister's reply to the Taoiseach's letter had been well-received. It will however take some time for feelings (on both sides) to subside; in the meantime, the Irish will be looking to us for reassurance that we are taking them into our confidence on those issues they see as crucial to an effective working relationship.

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