

SB
831

PREM 19/350

NOTE

Paper CC(79)75 not
present at review.

Wayland
6 July 2010

CC(79)79

COPY NO: 5

CONFERENCE PAPER

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached paper, setting out the British Government's proposals for the ceasefire arrangements, is circulated to delegates at the request of the Chairman.

Lancaster House

16 November 1979

The Ceasefire

1. A comprehensive ceasefire agreement will be necessary in order to ensure a cessation of all offensive military activities by the Rhodesian security forces and the forces of the Patriotic Front. To achieve this the British Government puts forward the following proposals for discussion.

The Time-scale

2. A fully effective ceasefire cannot come into operation immediately. Time will be required for the transmission of orders to all subordinate commanders in the field and for the implementation of whatever arrangements are agreed for the separation of the opposing forces. In the view of the British Government, this time should be kept as short as possible and need not be more than seven to ten days.

3. During this time, the leaders on each side will ensure that clear and precise instructions are issued to all units and personnel under their command to comply scrupulously with the agreed arrangements for bringing the ceasefire into effect. The political and military leaders concerned will be provided with facilities to make regular and repeated announcements, by all available means and through all appropriate channels, to assist in ensuring that instructions to observe the ceasefire reach all the forces under their command.

4. During this period, all movement by units of the security forces into neighbouring countries and by units of the Patriotic Front forces into Rhodesia will cease; both sides will desist from offensive activities and will carry out military operations only in self-defence. Machinery will be established for the assessment and maintenance of the ceasefire and will be in operation by ceasefire day.

/Observance

Observance and Supervision

5. The commanders of the forces involved will be responsible to the Governor for the observance of the ceasefire by the forces under their command.
6. The Governor will be assisted in this task by a British Military Adviser and a team of British military liaison officers. Arrangements will be made for liaison officers to be assigned as necessary to maintain contact with the forces concerned.
7. A Ceasefire Commission will be established in Salisbury to assess and supervise the observance of the ceasefire. The Commission will consist of the Governor's Military Adviser, as Chairman, and military representatives of the Rhodesian security forces and of the Patriotic Front. The Commission's functions will include:-
 - (a) ensuring compliance with agreed arrangements for the security and activities of the forces; and
 - (b) the investigation of actual or threatened breaches of the ceasefire.

Cross-border Activity

8. Subject to agreement on monitoring arrangements, provision will be made to permit the return of unarmed persons to Rhodesia between ceasefire day and the date of the election to vote or engage in other peaceful political activity. There will be no cross-border military activity by either side. The governments of Zambia, Botswana and Mozambique will be invited to agree on arrangements, to be established in conjunction with the ceasefire, to ensure compliance with this requirement by forces based outside Rhodesia and to control cross-border movements by such forces. The Governor will be responsible for ensuring compliance with this requirement by forces inside Rhodesia.

/Monitoring

Monitoring

9. Britain will take responsibility for the establishment of a Ceasefire Monitoring Group, and has invited certain other Commonwealth Governments to contribute to it. The group will operate under the authority of the Governor and his Military Adviser. The function of the group will be to assess and monitor impartially the observance of the ceasefire by the forces and to assist the Ceasefire Commission in its tasks. The commanders of the forces will undertake to co-operate fully with the Monitoring Group and to provide it with whatever facilities are necessary to assist it to discharge its functions.

Disposition of the Forces

10. If agreement can be reached on the foregoing elements, it will be essential to proceed to the practical arrangements which will be necessary to avoid the risk of clashes between the existing forces, whether these are accidental or the result of failures of communication. Adequate arrangements will be required, taking into account the present dispositions of the forces, to ensure that the ceasefire is not prejudiced by close proximity of units of the security forces and the Patriotic Front forces. It would not otherwise be possible to deploy the Monitoring Group. Arrangements will be made to ensure that proper provision is made for the security, accommodation and other agreed requirements of the Patriotic Front forces assembled in Rhodesia during the ceasefire.

CC(79)
ADDENDUM 1

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The following sentence has been added to paragraph 13 of the paper circulated by the British Government on 2 November (CC(79)56):

"The Patriotic Front's forces will also be required to comply with the directions of the Governor".

Lancaster House
15 November 1979

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CC(79)78

COPY NO:

89

THIRTY-FOURTH PLENARY SESSION

CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

Summary of the proceedings of the Thirty-Fourth
Plenary Session of the Conference, Friday
16 November 1979.

Lancaster House

16 November 1979

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PRESENT:

UK Delegation

Lord Carrington (in the Chair)

Sir I Gilmour Bt

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr P J Barlow

Mr A M Layden

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

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Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe

Mr J M Nkomo

Dr H Ushewokunze

Mr J M Chinamano

Mr D Mutumbuka

Mr J W Msika

Mr S Mubako

Mr W Musarurwa

Mr W Kamba

Mr A M Chambati

Mr L Baron

Mr D Dabengwa

Mr A Ndlovu

Miss E Siziba

It also enables the elected Government to remove them from their posts.

If the Patriotic Front's complaint is that the Independence Constitution does not allow the wholesale removal of existing public officers lower down the scale, the answer is that we do not intend that it should. Provided that members of these services perform their jobs conscientiously, they should continue to serve the government of the day. The Independence Constitution does, however, provide for gradual change in the public service, for instance through the directions which the President will be empowered to give the public service and other Commissions to achieve a proper balance of the various groups of the population in the service of the state.

The position of the Judiciary is different. The British Government take the view that the judiciary should be independent, and the Constitution provides for this. However, we understand that, in recognition of the special case which will prevail on Rhodesia's independence, the Chief Justice and other judges of the Appellate Division would in certain circumstances not wish to continue to serve.

The majority of these points have been made by the British Government here many times over the past two and a half weeks. Such new points as there are will, I hope, reassure the Patriotic Front. The terms for the interim period which the British Government believe are fair and reasonable to all parties should be clear beyond doubt. I do not believe that there can be any excuse now for putting off the moment of decision. /In

In the proposals (paragraphs 22 and 23) which I tabled on 2 November, there is reference to the legislation which the British Government intends to present to Parliament so that the Governor may, without loss of time after his arrival, take the steps necessary to allow elections to be held.

I should inform the Conference that an Enabling Bill is this afternoon being tabled in Parliament for this purpose. The Bill will enable provisions to be made for the Independence Constitution for Zimbabwe as well as for the holding of elections in which all parties will be able to participate and for the government of the country in the period prior to independence. This will enable us to put a settlement into effect as soon as one is reached. The Government's aim is a settlement in which all parties to this Conference will participate. The Bill will give the Government all the powers necessary to do this. That is the object of the Bill which has been tabled in Parliament this afternoon.

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CC(79)62
TWENTY-EIGHTH PLENARY SESSION

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the Twenty-Eight
Plenary Session of the Conference, Wednesday
7 November 1979.

Lancaster House
7 November 1979

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PRESENT:

UK Delegation

Lord Carrington (in the Chair)

Sir I Gilmour Bt

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr G G H Walden

Mr C D Powell

Mr R D Wilkinson

Mr C R L de Chassiron

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe

Mr S V Muzenda

Mr J M Tongogara

Mr E R Kadungure

Dr H Ushewokunze

Mr D Mutumbuka

Mr E Zvobgo

Mr S Mubako

Mr W Kamba

Mr J M Nkomo

Mr J W Msika

Mr T G Silundika

Mr A M Chambati

Mr L Baron

Mr S K Sibanda

Mr W Musarurwa

Mr D N Madzimbamuto

Miss E Siziba

Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr E L Bulle
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Mr L Nyemba
Chief K Ndiweni
Mr Z M Bafanah
Mr D C Smith
Mr R Cronje
Mr C Andersen
Dr J Kamusikiri
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr S V Mutambanengwe
Mr M A Adam
Mr I P Claypole

Secretariat

Mr J M Willson

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The session opened at 16.38.

THE CHAIRMAN delivered a statement which was subsequently circulated as Conference paper CC(79)63. He asked whether he could have the reaction of the Patriotic Front delegation to the British proposals presented to the Conference on Friday 2 November (CC(79)56). MR MUGABE said that his delegation would wish to react to the statement which the Chairman had just made, and to examine the Enabling Bill. He would have preferred to have had some idea of its content before it had been tabled in Parliament. Did it only cover matters already agreed at the Conference, or were the British trying to legislate in advance of agreement being reached?

THE CHAIRMAN said that what had been tabled was an Enabling Bill which would enable the British Government to take certain action in certain circumstances by means of Orders in Council; these latter were, broadly speaking, subject to affirmative resolution of Parliament. The Orders in Council would put into effect such matters as the Independence Constitution and the transitional arrangements. The Enabling Bill did not pre-empt any decisions which might be taken at the Conference. The Conference had to come to a conclusion before too long and it was important that the British Government should have on the statute book legislation which would enable the agreement reached to be put into operation. There was at that moment no legislation on the Statute Book which would enable this to be done. It was felt to be right to put the Bill before Parliament at that stage.

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It would give the government power to make an Independence Constitution, the power to make arrangements for elections and the power to appoint a Governor with executive powers.

MR MUGABE said that the Patriotic Front had not yet reached agreement on the position of the Governor in respect of both executive and legislative powers but the British had tabled a Bill assuming that agreement had been reached.

THE CHAIRMAN said that the purpose of the Bill had been misunderstood; it would give the British Government power to do certain things but the actual details of the powers of the Governor would be contained in an Order in Council, not in the Bill. The Chairman concluded by saying that he was still waiting for the Patriotic Front's response to the proposals presented on 2 November. MR MUGABE said that the Bill had been tabled and Sir Ian Gilmour had made a statement in Parliament. He asked whether it would be possible for his delegation to have a copy of both. THE CHAIRMAN said that as soon as the Bill had been published he would make copies available; to do so before this would be a breach of Parliamentary privilege.

MR NKOMO said that he supposed that the timing of the Bill was deliberate to put pressure on his delegation. He felt this was the wrong time for the Bill. The matters contained in the British proposals of 2 November were very complex and serious and they had had to look at each section in detail; that was why it had taken a long time. Now that they had the chance to achieve their aims they did not want to find that they had missed the opportunity to make certain points.

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They took the British paper very seriously and would provide an answer in the form in which Conference matters were usually handled. THE CHAIRMAN said that there had been exhaustive discussions on the same subjects over and over again, and he had still had no answer. Matters had been discussed which had very little relation to the British paper.

MR NKOMO said he was surprised that the Chairman had said that the matters discussed had no relation to the British paper of 2 November. All these matters were important to the independence of Zimbabwe, and people's lives were at stake. His delegation wanted to get away from the Conference, but not without matters being settled. He asked the British delegation not to put unnecessary pressure on them.

THE CHAIRMAN said that he did not think that it could be said that his delegation had been impatient. The Salisbury delegation had found it possible to accept the transitional arrangements on 5 November; this had entailed some difficult decisions for them. There was no doubt that the decisions to be taken by Mr Mugabe and Mr Nkomo's delegation were also difficult, but in the last few days nothing new had been heard. The Conference had now been meeting for 9 weeks and the war was still going on.

The Chairman repeated that he understood the difficulties, but that he nevertheless felt that he had to press the Patriotic Front delegation for an answer. MR NKOMO replied that the British delegation would receive one. MR MUGABE said that it was necessary to see the provisions of the Enabling Bill before answering; his delegation had also needed to see the British
/reply

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reply regarding the vital areas of power. They needed to know that the assumption of power by Britain during the interim period would not prejudice the Patriotic Front. Men at the top of the institutions of power were opposed to the Patriotic Front. His delegation could not trust the Governor; they had been disappointed when they had done so before 1965.

THE CHAIRMAN commented that a totally different sort of Governor was now being proposed. He recalled the series of questions and answers since 2 November, and said that going over these questions and answers repeatedly was not productive. There had been nothing new over the last three days. The Salisbury delegation had provided an answer, but not the Patriotic Front.

MR MUGABE said that the Patriotic Front delegation would provide an answer in accordance with the principles they held. His delegation had had to be sure that the Chairman's answers that day were final and that his delegation understood the provisions of the Enabling Bill. THE CHAIRMAN interjected that the latter did not alter things: the interim arrangements would be made under Orders in Council and what happened under the latter would have been agreed by all. MR MUGABE reiterated that the Bill still had to be studied: the implications might be far reaching.

THE CHAIRMAN promised to provide delegations with copies of the Enabling Bill straight away that evening. He asked

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Bishop Muzorewa and Delegation

Dr S C Mundawarara

Rev N Sithole

Chief K Ndiweni

Mr D C Smith

Mr L G Smith

Air Vice Marshal H Hawkins

Mr D Zamchiya

Mr M A Adam

Mr P Claypole

Mr D V M Bradley

Mr A MacMillan

Secretariat

Mr J M Willson

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the Patriotic Front delegation for answers the following day: if not, he did not know how he would proceed with the Conference. MR MUGABE said that if the Patriotic Front delegation could receive the Enabling Bill straightaway they would provide an answer the following day.

THE CHAIRMAN concluded by saying that he would expect the answer the following afternoon.

The session adjourned at 17.10.

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CC(79)61
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by the
Lord Privy Seal during the Twenty-Seventh Plenary
Session, is circulated to delegates at his request.

Lancaster House
6 November 1979

SIR I GILMOUR:

Mr Mugabe said that the British Government accepted the right of the future government of Zimbabwe to modify the institutions of Government. There is actually an important distinction to be drawn. The future Parliament of independent Zimbabwe can, if there are sufficient votes as specified in the Constitution, modify the institutions of government. At the same time the Independence Constitution will give the Government powers of appointment in relation to senior officers of the public service and defence forces, subject in some cases to an obligation to inform Parliament. The position of the British Government on these questions is exactly as stated in the Independence Constitution. The Independence Constitution agreed at this Conference permits gradual constitutional change if this is the course on which the elected government decides.

Mr Mugabe asked whether it is the British Government's intention that the existing services of the state should be inherited by the elected government on independence in precisely their present form. The British Government have made it clear, throughout the discussion in this Conference of the arrangements for the interim period, that we do not regard the pre-independence period as the time for decisions on these matters. It is our view that public officers should continue to serve in the interim period, during which they will be responsible

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to the Governor and subject to his authority. Their position after independence will be for the elected government to decide in a manner consistent with the terms of the Constitution and other laws and regulations in force.

Mr Mugabe recalled that the Patriotic Front's proposals for the interim period called on the Chief Justice, other High Court Judges and other judicial officers to vacate their offices on the appointment of an interim administration.

The British Government take the view that the judiciary should be independent as provided for in the Constitution. The Independence Constitution significantly widens the range of persons from among which both the Chief Justice and other judges can be appointed. There will thus be scope to broaden the judiciary and make gradual change. Moreover in certain circumstances we understand from the Chief Justice that he and the other judges of the Appellate Division would not wish to continue to serve after independence.

Mr Mugabe referred to the Patriotic Front's position in respect of the Defence Forces and the Police. Again, the British Government do not take the view that changes should be made in the structure of the security forces or in that of the Patriotic Front's forces in the interim period. Our views on the rôle of these forces is set out in the proposals tabled by Lord Carrington on 2 November and I have nothing to add to what is said there. The future shape of these services will be determined by the elected government in a manner consistent with the Constitution. Mr Mugabe made particular reference to auxiliaries. The British Government will expect

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all forces to observe the terms of the cease-fire.

Mr Mugabe suggested that the position on the registration of voters had not been adequately discussed. The Conference has had a very full discussion of this matter. In the British Government's view the need is to implement the Independence Constitution and allow the people of Rhodesia to choose their future government as soon as possible. This aim cannot be reconciled with the full registration of the voting population, which would take many months.

Mr Mugabe asked about the Order in Council appointing the Governor. This will vest executive and legislative authority in the Governor and make the other necessary provisions for the administration of Rhodesia in the interim period as described in the British Government's proposals.

Finally, Mr Mugabe raised the Order in Council making the provisions transitional/ to the Independence Constitution. In the British Government's view these would follow common form. There would be provision to continue existing laws. It will be for the future Parliament to decide which laws to change and which to keep. Existing officers would be dealt with in the terms which I have described. The assets of former governments would be vested in the new State, as would existing obligations including pre-UDI debts and liabilities. This would be essential to establish the new Government's credit-worthiness. There would be various other largely technical provisions.

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CC(79)60

COPY NO:

TWENTY-SEVENTH PLENARY SESSION

89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Twenty-Seventh Plenary Session of the
Conference, Tuesday 6 November 1979

Lancaster House
6 November 1979

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PRESENT:

UK Delegation

Sir I Gilmour Bt (in the Chair)

Mr R Luce

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr C D Powell

Mr A M Layden

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

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Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr E L Bulle
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Mr L Nyemba
Chief K Ndiweni
Mr Z M Bafanah
Mr I D Smith
Mr D C Smith
Mr R Cronje
Mr C Andersen
Mr G Pincus
Mr L G Smith
Mr D Zamchiya
Mr S V Mutambanengwe
Mr M Adam
Mr P Claypole

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Mr Mugabe, Mr Nkomo and Delegation

Mr J M Nkomo	Mr R G Mugabe
Mr A M Chambati	Mr S V Muzenda
Mr John Nkomo	Mr J M Tongogara
Mr L Baron	Dr H Ushewokunze
Mr S K Sibanda	Mr D Mutumbuka
Mr W Musarurwa	Mr J Tungamirai
Mr D N Madzimbamuto	Mr E Zvobgo
Miss E Siziba	Mr W Kamba

Secretariat

Mr J M Willson

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The session commenced at 15.07.

THE CHAIRMAN said that at the session on 5 November Mr Mugabe had made a number of points about the interim period to which Lord Carrington had promised a reply. He then delivered a statement, subsequently circulated as Conference Paper GC(79)61, and asked for comments.

MR MUGABE said that, in his view, it was necessary to examine the public service and to attempt to understand the need his delegation felt for modifying it during the interim period. It had supported a rebellion and could not be compared with its British counterpart which switched its allegiance smoothly from an out-going to an incoming government. It had certain undesirable ideological features which had to be transformed or purged. He was not saying that the public service should be abandoned, but those at the top, who had been politically committed to UDI, could not be accepted. Modification would be more difficult after independence. Mr Mugabe concluded by saying that the matter should be discussed.

MR NKOMO wondered whether there was sufficient flexibility within the civil service to allow for change. He also was interested in the Chairman's statement that the present judges had said that, in certain circumstances, they would not wish to remain. He asked what these circumstances were. These matters had to be fully discussed.

THE CHAIRMAN said that he had made a careful statement on the position of the judges and wished to go no further. There had been considerable discussion of the public service institutions.

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The session commenced at 10.15.

THE CHAIRMAN delivered a statement, subsequently circulated as Conference Paper CC(79)80, in which he introduced the British proposals for the ceasefire (Conference Paper CC(79)79).

MR NKOMO noted that the Chairman had referred to the considerable concessions made by the two delegations; this was certainly true of the Patriotic Front, nor would he say that others had not made concessions. He was not, however, sure that the UK delegation had made any substantial concessions; their unwillingness to compromise on some issues had delayed the Conference. The Conference was now to tackle the very difficult subject of a ceasefire. Everyone wanted the war to end; if this could be done in hours rather than in days, it would be appreciated. Mr Nkomo hoped that the British proposals for the ceasefire did not follow the example set by their previous proposals on the independence constitution and the interim arrangements. These documents had been difficult for his delegation to appreciate.

Mr Nkomo noted that the Chairman had mentioned that the ceasefire would be assisted by a Commonwealth monitoring force, and that a number of countries had been approached and had indicated their willingness to take part. This surprised his delegation, which had not been consulted on this matter. They did not know the criteria used in considering approaches to Commonwealth countries, nor which countries were involved. This placed his delegation in a very difficult position. In the

/proposals

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There was a difference of philosophy between the British delegation and that of the Patriotic Front; the latter considered that decisions should be taken on these institutions during the interim period. The British delegation's view was that it was for the elected government of the new independent Zimbabwe to take these decisions.

The Chairman commented that the position in Rhodesia was different now from that 15 years ago; this had been reflected in statements made by Dr Mundawarara and members of his delegation. The British delegation accepted that the institutions of the illegal regime in Rhodesia could not be compared to those in Britain. It was for this reason that a Governor would be appointed; to end illegality and to bring Rhodesia to legal independence. The Chairman said that he did not favour the use of the words "ideology" and "purge" in discussion of the public service, but that he would not contest their use by others. He concluded by saying that the British delegation had tried to be as explicit as possible in dealing with the various points raised.

DR MUNDAWARARA said that he did not recall any precedent in the history of decolonisation for the dismantling of existing forces. A state of war had prevailed also in Kenya, for example, but there had been no purge of public institutions there. He therefore wondered why such a course was being suggested for Rhodesia.

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MR MUGABE said that in the case of Rhodesia there was a situation of rebellion. This situation had not existed in Kenya, and that was the difference. His delegation did not question the act of legalising those institutions which were illegal, but wished to take precautions against a possible UDI, subversive activities or sabotage. Racism had been the doctrine and was still the pattern. The present heads of Departments had worked for the regime of Mr Ian Smith. Their outlook had not changed, nor had the structures, and his delegation did not want such a situation to arise with a post-independence government.

THE CHAIRMAN said that Mr Mugabe had referred to a situation of rebellion but in fact the real situation was one of civil war; the British sought to bring this to an end by elections and the Independence Constitution. The British had made proposals to change the constitution and to give the incoming government more power over the civil and other services than existed at present. He thought that this dealt with the Patriotic Front's fears. The British wished to enable the incoming government to change the civil service within acceptable limits; it was wrong to brand everyone serving in the present Government as a racist. MR MUGABE interjected that he had not branded all civil servants as racists, but that there were racists at the top of the civil service.

THE CHAIRMAN replied that the British proposals made provision for the incoming Prime Minister to make changes at the top of the Civil Service.

/MR NKOMO

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MR NKOMO said that he objected to the Rhodesian situation being called a civil war; it was a war against colonialism.

THE CHAIRMAN said that he was not wedded to a particular form of words; the fact was that there was a war which the Conference was seeking to end. MR BARON said that his delegation regarded it as a war of liberation and, in United Nations terms, as an international war.

The British delegation had resisted the efforts of his delegation to discuss the four essential services (the Army, the Police, the Judiciary and the Public Service) during the discussions on the Independence Constitution, saying that the proper time to do so was during discussions on the interim period. THE CHAIRMAN said that this was not the case; the British had said the institutions should be discussed during the talks on the Constitution, but that otherwise they were matters to be settled by the new independent government.

MR BARON disagreed; and said that his delegation had constantly been prevented from discussing the transitional provisions and the interim arrangements during consideration of the Independence Constitution. They could not judge the effect of the independence provisions until they knew who was going to man the institutions in question because some of the machinery proposed was very restrictive. For example, in the case of the army and police the British had provided for the removal of the Commanders by the President on the advice of the Prime Minister. In the case of the public service, retirement /provisions

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provisions for senior personnel were different and would be subject to a decision by a Public Service Commission. For the judiciary the restrictiveness was complete. He said it was necessary for his delegation, if they were to assess the effect of the proposed independence provisions, to know what people they were being asked to inherit.

On 2 October they had raised this matter at a bilateral meeting; Mr Fifoot had said that "in general we conceive that existing officers would carry over save for top appointments and the Chief Justice".

His delegation had not been told which top appointments the British had in mind for each of the four institutions. These were all separate questions and should not be dealt with on a composite basis. THE CHAIRMAN reiterated that the British view was that public officers should continue to serve in the interim period during which they would be responsible to the governor and subject to his authority. Their position after independence would be for the elected government to decide.

MR NKOMO said that his delegation did not seek to move people from their jobs wholesale, but the constitution provided protection for the civil service and judiciary in such a way that the position of these men would remain entrenched. The Patriotic Front did not wish to remove people unnecessarily but to be able to remove those who made it impossible for government to function.

THE CHAIRMAN said that anyone who did this would surely

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have broken the regulations of his office and would be subject to dismissal. No Government could be obliged to continue such a person in office. With regard to the public service as a whole, the current regulations (which would be continued in force) provided in certain circumstances for senior officials to be asked to resign in the public interest. The Independence Constitution provided that the Commissioner of Police and the Commander of the Defence Forces could be removed by the President on the advice of the Prime Minister.

MR BARON asked about the position of those below the level of the Commanders. He considered that removing the commanders of these forces would have comparatively little effect. The position of the judiciary was clear; there was no doubt about the inability of any future government to remove a judge. The British had said that during the interim period existing officers would continue to serve the Governor and that after independence it would be up to the new government to make whatever changes were permitted by the law. His delegation wanted to know what would be the legal position under the transitional provisions at midnight prior to day one? What would be the automatic effect of the transition from dependence to independence?

THE CHAIRMAN said that Mr Baron had said his delegation wanted to look further down the structure, but that seemed to go against what Mr Nkomo had said earlier - that he did not want wholesale dismissals for dismissals' sake. Mr Baron seemed to be close to advocating an old fashioned spoil system on the

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American model, with an incoming government bringing in all its own people. That was not what the British envisaged at all. MR BARON said that they did not want wholesale replacements, but the legal power to remove individuals at that level.

THE CHAIRMAN said any public servant acting in contravention of his terms of service could expect action to be taken against him, as was normal under any civil service procedures.

MR MUGABE sought clarification of Mr Fifoot's reported remarks on that point at an earlier bilateral meeting. MR FIFOOT said that he had not looked at the British record of the meeting but that he recalled having said that the British view was that those in office on Day minus 1 would be continued in office on Day 1 of independence. He would consult the record to discover what else he had said.

MR KAMBA said that under the Independence Constitution it was prescribed that the President would appoint the Attorney General and Secretaries to Ministries on the advice of the Prime Minister. If on Day 1 of independence the existing Attorney General and Secretaries to Ministries were retained, would the incoming government be able to replace these officials? MR FIFOOT replied that under the constitution the Attorney General was a specially protected officer. The Secretaries of Ministries were not, and were subject to the possibility of removal in the public interest under the existing Civil Service rules.

THE CHAIRMAN remarked that it seemed that the debate on the Constitution was now being reopened when the Conference was in fact

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discussing the interim arrangements. He suggested that detailed legal questions should be submitted, preferably in writing, for answer by the British delegation. The Conference owed it to the people of Rhodesia and of the neighbouring countries to make progress and to move to a successful conclusion.

MR ZVOBGO said that his delegation had reserved its position on these four institutions, and had said that it would reopen them if it was not satisfied. It was now clear that the British delegation wanted the present judges to continue on Day 1 of independence, and the new government would be helpless to effect changes. The same applied to the other three areas; for example, General Walls had stated in London that there would be no change in the defence forces. THE CHAIRMAN said that he had nothing to add regarding judges. As for General Walls' statement, Mr Mugabe had said, and all delegations had accepted, that nothing said outside the Conference was relevant inside the Conference. There was justifiable impatience at the slow progress of the Conference. Any new points would, of course, be dealt with.

MR MUSARURWA said that his delegation would not be stampeded into making decisions which would afterwards be regretted. The Salisbury delegation's decision to accept the British proposals was now being used to pressurise the Patriotic Front delegation. The so-called internal settlement had been concluded only after four months of negotiation. The Conference was now discussing complicated issues which could not be decided quickly. THE CHAIRMAN agreed that well-considered
/decisions

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decisions were needed for a successful outcome to the Conference. MR LUCE said that it was proper to raise or even to reiterate anxieties. But the people of Rhodesia would not understand if delegates talked round subjects endlessly with no movement towards an end to the conflict. With regard to the question of public servants, in a situation of mutual distrust and antagonism, the assumption must be that all those in positions of responsibility, whether in the Civil Service or in the political field, would stick to the agreement once it was reached. They would bear a very grave responsibility for the consequences of any infringement. Public servants who transgressed would be subject to dismissal by the Governor under the transition or by the new government after independence. There came a time when the assumption had to be made that everyone involved would wish to make the agreement work.

DR MUNDAWARARA said that there was no benefit in repeating arguments. The Conference could not proceed aimlessly. If a public servant was to be replaced for his ideological views, the person replacing him could well hold opposing ideological views. This was not the way to maintain an apolitical Civil Service.

THE CHAIRMAN recalled a remark of Oliver Cromwell, that a public servant should be judged by his actions and not by his opinions.

MR NKOMO said that what was at issue was the racist structure and manning of the public institutions. His delegation wanted to return to their country, but only if those evils which had

/brought

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brought them to the Conference had been righted. He asked that the Chairman should explain to the Conference the provisions of the proposed Orders-in-Council. If the other delegation had made the right decision on 3 April, there would have been no need for a Conference.

MR MUGABE said that he would like to make clear the point that, when the Independence Constitution had been discussed his delegation had wished to discuss the four institutions not only in relation to the independence period but also in relation to the interim period. However, the British Government had felt that the transitional arrangements should not be dealt with at that time. That was why his delegation had reserved their position on these areas - so that they could subsequently discuss their nature and character during the transition.

DR MUNDAWARARA said that if Bishop Musorewa's delegation had not wished to discuss those matters they would not have been present at the Conference. Such matters were usually discussed only once, however, unless there was provision for coming back to them. How could someone say they accepted the constitution and then say they still wished to discuss it?

THE CHAIRMAN said that all present had strong feelings on the matter. He said he had given a clear statement of the British Government's views earlier that afternoon, the main points of which he would summarise. These were:

1. The time for change was after independence;
2. the existing officials should continue to serve during the

/interim

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interim period; the time to replace them was after independence, and the machinery to do so existed;

3. the position on the judiciary was given in his statement in a way which was intended to be helpful.

He then asked if there were any more specific questions which could be put either verbally or in writing.

DR USHEWOKUNZE said that they had come to negotiate; they had waited 89 years for independence. What was a paltry 9 weeks in this context? He asked the British to be patient with his delegation. THE CHAIRMAN said that he thought they had been very patient. They had produced and had secured agreement (subject to agreement on the interim arrangements and a cease-fire) on an Independence Constitution which would lead to genuine majority rule. It was not helpful therefore to suggest that any new government which came to power after independence was not going to enjoy majority rule. MR MADZIMBAMUTO repeated that his delegation had reserved their position on the four institutions. Would the public service in the interim period be that of the old régime?

THE CHAIRMAN said that the Conference had now been discussing the the public service, the army, the police and the judiciary for one and three quarter hours and he had given the British Government's position. Perhaps those present would like to reflect on what had been said, and meet again the following morning. He also hoped that the Patriotic Front's reaction to the British proposals (CC(79)56) would be available soon.

/MR BARON

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proposals tabled by his own delegation, it had been stated that the names of those countries which might contribute to such a monitoring scheme should be agreed at the Conference. The British decision to go ahead and to announce its approaches to the press was not likely to enhance the prospects for a quick agreement, but would invite lengthy debate. Mr Nkomo asked the Chairman to explain why these countries had been approached and their offers to participate apparently accepted without prior reference to the Conference.

DR MUNDAWARARA hoped that everyone accepted that it was essential to reach final agreement as soon as possible. An agreement would remove the sense of uncertainty in his country. Lives were being lost daily. The Conference had taken three weeks to agree on the interim arrangements. His delegation, in a spirit of conciliation and constructiveness, had accepted the British proposals a few days after they had been tabled. The other delegation had taken three weeks to agree, with no substantial changes to what had originally been proposed. Dr Mundawarara urged that the Conference should proceed in a manner which accorded with the seriousness of its task in order to come to a conclusion as soon as possible.

THE CHAIRMAN accepted Dr Mundawarara's view of the urgency of agreement on the next stage of the negotiations. He said that, in the light of the atmosphere created by the agreement of the Patriotic Front on the previous day, he would not take up in detail the points raised by Mr Nkomo,
/but

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MR BARON said that the British had said that if a senior civil servant were to act in a manner contrary to the terms of his employment he could be dismissed. This had not turned out to be the case in Zambia in the post-independence period. The expatriate civil servants had hindered the advancement of Zambians. He considered that there were greater risks of such a situation arising in Zimbabwe, where those in official positions were Zimbabweans whose interest would be to remain in their posts. In practice it was very difficult to get rid of a public servant. He was not talking of subversive action, but of obstruction, go-slows, losing papers etc.

The meeting ended at 16.53.

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CC(79)59
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by
Dr Mundawarara during the Twenty-Sixth
Plenary Session, is circulated to delegates
at his request.

Lancaster House
5 November 1979

MR CHAIRMAN,

AS I HAVE REITERATED ON MANY OCCASIONS SINCE THIS CONFERENCE STARTED, I AND MY MINISTERS REPRESENT A GOVERNMENT WHICH HAS BEEN DEMOCRATICALLY ELECTED BY THE FIRST MAJORITY RULE ELECTIONS EVER HELD IN ZIMBABWE RHODESIA. FOR THE FIRST TIME EVER, ALL CITIZENS OF OUR COUNTRY, WHO WERE 18 YEARS OR OLDER, WERE GIVEN THE VOTE AND 64,8 PERCENT OF OUR PEOPLE

TURNED OUT /...

2.

TURNED OUT TO EXERCISE THEIR RIGHT DESPITE EVERY EFFORT BY OUR OPPONENTS TO FRUSTRATE THE ELECTIONS. LET ME EMPHASIZE THAT IT IS TRADITIONAL, UNDER EVERY DEMOCRATIC SYSTEM, THAT AN ELECTED GOVERNMENT REMAINS IN OFFICE UNTIL IT IS REJECTED BY THE ELECTORATE, EITHER WHEN ITS TERM OF OFFICE EXPIRES OR WHEN THE GOVERNMENT ITSELF DECIDES TO CALL A FRESH ELECTION, AND THEN THE ELECTIONS ARE

CONDUCTED /...

3.

CONDUCTED UNDER ITS AUTHORITY AND SUPERVISION. THE ELECTORATE IN OUR COUNTRY HAS NOT REJECTED MY GOVERNMENT, NEITHER HAS ITS TERM OF OFFICE EXPIRED. THE BRITISH PROPOSALS FOR THE PRE-INDEPENDENCE ARRANGEMENTS REQUIRE, HOWEVER, THAT WE UNDERTAKE NOT TO EXERCISE MINISTRIAL FUNCTIONS FOR A SHORT PERIOD WHILE WE COMMIT OURSELVES TO THE ELECTION CAMPAIGN. MR CHAIRMAN, WE HAVE ALREADY

AGREED /...

4.

AGREED TO MAKE THIS MAJOR CONCESSION, ALTHOUGH IT REQUIRED VERY CAREFUL CONSIDERATION AND MUCH SOUL-SEARCHING BEFORE WE DID SO. WE DID THIS BECAUSE WE SINCERELY FELT THAT IT WAS IN THE BEST INTERESTS OF OUR NATION TO DO SO. IT WAS BECAUSE WE HAVE BEEN PERSUADED THAT THIS IS THE ONLY EFFECTIVE WAY IN WHICH WE CAN ACHIEVE AN IMMEDIATE LIFTING OF SANCTIONS

IMPOSED /...

5.

IMPOSED AGAINST US AND BRING ABOUT AN EARLY RECOGNITION OF OUR COUNTRY THAT WE ACCEPTED THE BRITISH PROPOSALS.

MR CHAIRMAN, I AND MY DELEGATION ARE PREPARED TO ACCEPT THE PROPOSALS YOU TABLED AT THE PLENARY SESSION ON THE 2ND NOVEMBER. IN DOING SO WE WISH TO MAKE TWO POINTS.

FIRSTLY /...

6.

FIRSTLY, I WOULD URGE THAT WE GET ON WITH THE BUSINESS OF THIS CONFERENCE EXPEDITIOUSLY SO THAT WE CAN FINISH OUR TASK AS SOON AS POSSIBLE. SECONDLY, MR CHAIRMAN, I WISH TO EMPHASIZE OUR VIEW THAT THE ELECTIONS MUST BE HELD AS SOON AS POSSIBLE SO THAT OUR COUNTRY CAN ACHIEVE INDEPENDENCE AND RECOGNITION QUICKLY AND SO THAT THE PERIOD OF UNCERTAINTY IN OUR COUNTRY IS REDUCED TO AN ABSOLUTE MINIMUM.

Therefore /...

THEREFORE, MR CHAIRMAN, WHERE YOUR PROPOSALS STATE THAT THE GOVERNOR WILL DECIDE THE DATES OF THE ELECTION AFTER HIS ARRIVAL IN ZIMBABWE RHODESIA, MY DELEGATION FEEL VERY STRONGLY THAT TWO MONTHS IS MORE THAN SUFFICIENT TIME FOR AN ELECTION CAMPAIGN.

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CC(79)58

COPY NO: .

89

TWENTY-SIXTH PLENARY SESSION

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Twenty-Sixth Plenary Session of the
Conference, Monday 5 November 1979.

Lancaster House
5 November 1979

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UK Delegation

Lord Carrington (in the Chair)

Sir I Gilmour Bt

Lord Harlech

Sir J Graham

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr P J Barlow

Mr R D Wilkinson

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe

Mr S V Muzenda

Mr H Ushewokunze

Mr D Mutumbuka

Mr J Tungamirai

Mr E Zvobgo

Mr W Kamba

Mr J M Nkomo

Mr J W Msika

Mr A M Chambati

Mr John Nkomo

Mr S K Sibanda

Mr W Musarurwa

Mr D Madzimbamuto

Miss E Siziba

Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr E L Bulle
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Mr L Nyemba
Chief K Ndiweni
Mr Z M Bafanah
Mr I D Smith
Mr D C Smith
Mr C Andersen
Dr J Kamusikiri
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr D Zamchiya
Mr S V Mutambanengwe
Mr M A Adam

Secretariat

Mr J M Willson

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but urged him to examine the British ceasefire proposals.

The Chairman pointed out that, in order to put realistic proposals to the Conference, the British Government had had to take soundings of some Commonwealth countries to determine what was and what was not possible. He asked the other delegations to consider the British proposals urgently in preparation for work over the weekend.

The session ended at 10.27.

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The session commenced at 17.54.

THE CHAIRMAN recalled that two papers had been tabled on 2 November, his statement (CC(79)57) and the British Government's proposals (CC(79)56). Both delegations had said that they would look at these and let him have their answers when they were ready. He asked if either delegation would like to speak.

MR MUGABE said that he had understood that matters outstanding would be dealt with first. At the Chairman's invitation, he confirmed that he wished to raise these.

Mr Mugabe, continuing, said that when his delegation had submitted their final position on the Independence Constitution they had made it known that they still had to be satisfied about items, such as the nature of the Services during the transition, before they could be satisfied about them in relation to the constitution. They had therefore been taken aback when the British delegation had proposed tabling their final proposals before these matters had been settled. His delegation accepted the principle that it was the right of the independence government to modify the institutions of government in accordance with its own principles and liking. It seemed, however, that the British delegation wanted to see these institutions adopted intact or in a form they would want to see passed on. The present situation was one of illegality: the defence force, the police force, the public service and the judiciary could not be regarded as legal institutions.

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Part of the exercise of the Conference was the restoration of legality. The British had proposed that the Governor, acting with the powers given him by an Order in Council, should assume control of the institutions. The assumption of control would, he took it, constitute the act legalising those institutions and creating a legal order. In so doing, however, the British would, in his view, be creating institutions which would stand to be inherited by the independence government, thus in a sense deciding issues for that government.

His delegation would be the last to say that these institutions should be discarded but were reluctant that they should be passed on as they were. Doing so would tie the hands of a future government and contradict the principle that nothing should be done to interfere with the right of the future government to modify institutions as they wished. His delegation were concerned that the British had not proposed any modification of these institutions in their document. Did the British intend that they should be inherited unchanged, containing certain highly objectionable elements?

His delegation therefore wished the character of these institutions to be discussed. Such discussion should not however be seen as an acceptance of the context provided in paper CC(79)56 but in the context of his delegation's own document and on the basis of their own proposals for the transitional arrangements.

Mr Mugabe asked that his delegation's position regarding each institution be analysed. The retention of existing institutions and personnel meant that the new government would

/inherit

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inherit personnel whose positions would be protected under the Independence Constitution. Although the Independence Constitution provided that the Attorney General, the Secretaries to the Ministries, the Secretary to the Cabinet, the Chief Justice and the Commissioner of Police would be appointed by the President on the advice of the Prime Minister, the British Government nevertheless intended to saddle the independence government with the present incumbents. His delegation wanted agreement that certain elements should not be passed on. On the judicature, his delegation had proposed that the Chief Justice and all the judges of the High Court should be deemed to vacate office on the formal installation of the interim Government and be replaced on an acting basis. This would allow the future Government to fulfil the people's choice. They also proposed that the top officers in the law and judiciary, the chief magistrate and regional magistrates, should also vacate their offices and be replaced in the interim by temporary appointees.

On the Public Service, his delegation proposed that existing officers should continue in office, subject to the right of a transitional Public Service Commission to be appointed by the Governing Council to retire any officer in the public interest.

His delegation had already stated sufficiently their position on the armed forces and the police force. Sir Ian Gilmour's reply on auxiliaries, however, suggested that the British Government intended to include notorious auxiliaries, such as the Selous Scouts and Grey Scouts, as well as mercenaries in existing forces - and their counter-

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parts in the police force.

What therefore did the British proposals seek to pass on to an independence government? Should these ugly and vicious elements be allowed to see the dawn of independence?

His delegation wanted discussion to centre on these four areas so that these services could be made acceptable to the people of Zimbabwe. His delegation wanted these issues clarified; it was necessary that their own position on the areas of power on which they had reserved their position be made clear.

Mr Mugabe continued that the question of elections, especially the registration of voters, required further discussion. Sir Ian Gilmour had said that some consideration would be given to this but discussion on it had not transpired.

It was necessary to examine the character of, and elements within, these institutions. If the Conference was going to agree to a process legalising those institutions, it also had to take cognizance of those elements within them wholly unacceptable to his delegation. His delegation did not intend to lengthen debate but these matters had not been discussed. Perhaps they had been reserved for discussion under the Order in Council; they also raised the importance of the Conference discussing the main aspects of the Order in Council.

MR NKOMO said that the position of his and Mr Mugabe's delegation had been outlined and that it was important that the nature of the institutions during the transition to independence be looked at so that British intentions could be clarified.

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Would they be discussed when presenting the second Order in Council? Any initial Order in Council should indicate British intentions towards the institutions of Government. His delegation's position had been made clear in discussion of the Independence Constitution but could not be complete until the Order in Council had been made clear and discussed. The contents of the latter needed to be known: if the new Government was to inherit personnel, these needed to be investigated.

THE CHAIRMAN asked whether Dr Mundawarara wished to speak. DR MUNDAWARARA then delivered a statement which was subsequently circulated as Conference Paper CC(79)59.

THE CHAIRMAN said that he was very conscious of the compromises which Bishop Muzorewa's delegation had made in accepting the British proposals, and was most grateful for their prompt response. He asked whether Mr Mugabe's and Mr Nkomo's delegation wished to raise any further points of clarification on the British paper tabled on 2 November (CC(79)56).

MR MUGABE said that the matter he had raised needed to be concluded; the British paper wrongly assumed that everything had been discussed and concluded. However, there were no further points he wished to raise on the British proposals: his delegation would react in due course.

THE CHAIRMAN said that a full answer would be provided the following day to the points raised by Mr Mugabe, although some had already been discussed. He noted that there were no other questions Mr Mugabe, Mr Nkomo and delegation wished to

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ask on the British paper (CC(79)56), which had been tabled on 2 November. Recalling that the Conference had now entered its 9th week, the Chairman noted that there had been repeated discussion of most of the points at issue and that the time had come to take decisions. He therefore appealed to Mr Nkomo and Mr Mugabe and hoped that they would not take too long in deciding whether they could accept the British proposals. He hoped that they would be able to accept them very shortly. The British delegation wanted, and had genuinely tried to achieve, a fair compromise between the positions of the two sides. In the Chairman's view, it would not be possible to achieve agreement between all the delegations on a basis other than that offered in the British proposals.

MR MUZENDA asked when sanctions had been imposed on a democratically elected government of Rhodesia. There seemed to be conflicting statements as to the legality of the Government in Rhodesia. THE CHAIRMAN said that it was open to both sides to put their point of view and to challenge any delegate's remarks. He, as Chairman, did not necessarily agree or disagree with views expressed.

MR MUGABE referred to the Chairman's repeated references to the sacrifices that the Salisbury delegation had had to make. He questioned whether a return from illegality to legality could be regarded as a sacrifice. The Salisbury delegation had made no sacrifices: rather it was his delegation which was making them.

/MR NKOMO

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MR NKOMO looked forward to receiving the British reply to the points raised by Mr Mugabe. He hoped that this would not be a point by point answer, but would accept that what was needed was a full discussion of the issues which had been raised, which were of great importance for the future of his country. These issues involved the position of people and needed to be fully and clearly discussed.

THE CHAIRMAN then suggested an adjournment until the following day.

The session ended at 18.30.

CC(79)57
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by the Chairman during the Twenty-Fifth Plenary Session, is circulated to delegates at his request.

Lancaster House
2 November 1979

LORD CARRINGTON:

On 19 October we reached agreement in this Conference on the Independence Constitution subject to satisfactory arrangements for implementing it. Since then our discussions have concentrated on the holding of elections to bring the Constitution into force and the administration of Rhodesia in the pre-independence period. In the third and final phase of the Conference, which I hope can begin very soon, we shall be ready to proceed to negotiations on a ceasefire.

In the course of our discussion of elections and the administration in the interim period a number of papers and statements have been circulated as Conference documents. The Patriotic Front tabled proposals for transitional arrangements early in the Conference and subsequently put forward a further paper on the Essential Requirements for the Transition. The Salisbury delegation have circulated the texts of statements by Bishop Muzorewa and Dr Mundawarara. The British delegation tabled outline proposals for implementing the Independence Constitution on 22 October and followed this with Notes on the Elections and on the Administration in the Interim Period on 29 October. We also circulated the texts of three statements by Sir Ian Gilmour on 27 and 31 October.

I list these documents in order to underline the serious and substantive nature of the discussions held over the past two weeks on these important questions. I do not believe that any party can have a less than full understanding of the

/position

position of the other. I should like to assure both sides that the views which they have put forward have been very carefully considered by the British Government.

The British Government's approach to the pre-independence arrangements takes as its starting point the communiqué of the Commonwealth Heads of Government meeting in Lusaka, which called for free and fair elections properly supervised under the British Government's authority. We considered that the essential requirement for free and fair elections was to create the wider conditions in which both sides would feel confident of being able to take part on an equal footing. This could be achieved only with the assurance that the administration of the country during the elections would be fair and impartial. Since it is internationally recognised to be the British Government's responsibility to bring Rhodesia to legal independence, we decided that the necessary conditions could only be created if we were to assume direct responsibility for the administration of the country in the interim period. This was not an easy decision for the British Government to take. The responsibility is heavy; and the risks are serious. But the British Government is prepared to assume that responsibility if it will ensure that Rhodesia can come to legal independence with a government chosen in free and fair elections in which all parties can take part.

In the course of our discussions, it has been suggested that elections should be supervised by the United Nations or the Commonwealth. It will be for the British Government

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CC(79)77

COPY NO: 89

CONFERENCE PAPER

CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

The attached statement, delivered by the
Chairman during the Thirty Third Plenary
Session, is circulated to delegates at his
request.

Lancaster House

15 November 1979

to supervise the elections; and they will be held under the British Government's authority.

The outline proposals which the British Government tabled on 22 October provided for the appointment of a British Governor with full powers for the short period which we believe is necessary for the holding of elections. This proposal required Bishop Muzorewa and his colleagues to relinquish power during the interim period and hand over their functions to the British Governor. This was not an easy decision for them, and the British Government is grateful to Bishop Muzorewa and his delegation for agreeing to take this step.

The Patriotic Front proposed that power in the interim period should be shared between all the parties. The crucial political decision in the interim period is the decision of the people on their future government. The rôle of the political leaders will not be to exercise control over the administration, but to explain their case to the people and to seek a mandate from them. The task of the Governor in this period will be to conduct the day-to-day administration of the country in a way which does not discriminate against any of the parties.

Had it been possible for the parties themselves to agree on alternative arrangements to those put forward by the British Government, we should of course have raised no objection. But Bishop Muzorewa has made clear that the

/Patriotic

Patriotic Front's proposals are unacceptable to his delegation. The Patriotic Front would not accept that Bishop Muzorewa and his colleagues should continue to govern the country in the interim period. An arrangement which places the administration of the country in the hands of a British Governor, as constitutionally responsible, offers the only possible basis on which agreement can be reached.

The Patriotic Front have argued that the administration cannot be impartial if the Governor has to exercise his authority over the existing civil service and police. It will be for the Governor to ensure that the executive authority will be exercised impartially. All political parties will be represented on an Election Council and can make representations to the Governor about any matters affecting the conduct of the elections. There will be an Election Commissioner with sufficient staff to ensure that the conduct of the elections is effectively supervised at every stage.

The Governor will be instructed to make adequate arrangements, in consultation with the parties, to safeguard the personal security of all the political leaders during the election campaign.

The Patriotic Front have suggested that our proposals for the administration of the country in the interim exclude their forces. The British Government has made clear that an effective cease-fire is an essential element in holding free and fair elections. We do not envisage a rôle for the military forces in this period other than the
/maintenance

maintenance of the cease-fire. Both sides will be equally responsible to the Governor for this, and there will be a body on which military leaders of both sides are represented to ensure the observance of the cease-fire, as well as appropriate arrangements for monitoring it. Law and order will be the responsibility of the civil police, under the supervision and authority of the Governor.

The Patriotic Front have also expressed concern at the length of the interim period. If there is agreement on a cease-fire, the Governor will take up his office immediately. The cease-fire will be brought into effect as quickly as possible and certainly on a very much shorter time-scale than the two months envisaged in the Patriotic Front's paper. Elections would be held two months after the coming into effect of the cease-fire. No longer period than this is necessary for the parties to put their case to the people of Rhodesia. There is pressing need for an end to the uncertainty and an early start on the tasks which will face an elected government. It will not be possible to undertake a whole range of other tasks in addition to the essential requirement of maintaining the cease-fire and making the arrangements for fair elections in the pre-independence period.

This Conference has now been in session for almost nine weeks. The people of Rhodesia are entitled to look to us to take decisive steps towards the ending of the war and the holding of elections so that genuine majority rule can be implemented without further delay. To help us advance

/towards

towards this goal, I am this afternoon tabling the British Government's fuller proposals for implementing the Independence Constitution. I am presenting them to you as a serious attempt to establish a basis on which both sides could agree to settle their differences and the question of who should constitute the future government of Zimbabwe by political means. The attainment of peace requires an equal commitment by both the other delegations here to put their political support to the test in elections held under the British Government's authority. We will not be prepared to transfer power to any party which has not won it in elections. I appeal therefore to both delegations to study these proposals and to let me know when we meet again whether they can accept them. They call for sacrifices from all parties to this Conference. Both sides have been willing to show a spirit of compromise over the Independence Constitution. Neither side is being asked to capitulate or surrender; both sides are being asked to compromise. I believe that our proposals offer the prospect, and I have no doubt the only prospect of ending the war. They allow both sides to put their case to the people in conditions which the world will regard as fair and reasonable and will be watching to see that they are. The British Government is prepared to play its part in bringing them into effect at the earliest possible date, and thereafter to transfer power to a government formed by whichever party wins the elections. If both delegations can agree on the conditions for holding elections and the administration of the country in the

/interim

interim period on the basis of the proposals which I am tabling, it will then be possible to begin the final phase of negotiation in this Conference and to open negotiations on the arrangements for a cease-fire and its maintenance. Thus we can bring an end to the war and begin the process of bringing Rhodesia back to normality.

CC(79)56
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached paper, which sets out the British Government's detailed proposals for implementing the Independence Constitution, and is in amplification of the paper circulated on 22 October (CC(79)32), is circulated to delegates at the request of the Chairman.

Lancaster House
2 November 1979

RHODESIA: THE PRE-INDEPENDENCE ARRANGEMENTS

1. The British Government puts forward the following proposals for implementing the Independence Constitution in amplification of those tabled on 22 October.
2. Rhodesia continues to be part of Her Majesty's dominions. The Government and Parliament of the United Kingdom have responsibility and jurisdiction for and in respect of it. It is for the British Parliament to grant legal independence to Rhodesia.
3. An Independence Constitution has been agreed by the parties, subject to agreement on the arrangements for implementing it. The Constitution gives full effect to the principle of genuine majority rule and will give the government of independent Zimbabwe the powers it needs to carry out the policies on the basis of which it is elected.
4. The question of majority rule, which gave rise to the war, has therefore been resolved. The question now at issue is who is to form the future independence government. The British Government's position is that this must be decided by the people of Zimbabwe, in free and fair elections in which all parties will be able to take part on equal terms. The British Government will transfer power to whatever leaders are chosen by the people of Rhodesia in elections held under these conditions and supervised under the British Government's authority. The British Government will not be prepared to transfer power to any party which has not won it in elections. The elections will be held on the basis of the Independence Constitution and all parties will be expected to abide by it. All parties taking part in the elections will also be expected to commit themselves to abide by the outcome. Such a commitment will be essential if Zimbabwe is to come to independence in peace and with a prospect of stability and prosperity for all its people.
5. The proposals put to the Conference by the Salisbury delegation and the Patriotic Front showed that there was a wide divergence on views on how to create the conditions in which fair elections can be held.

6. The Salisbury delegation maintained that they had been elected to govern Rhodesia, that most of their members had nothing to do with the illegal declaration of independence, that they had a mandate to govern Rhodesia, and that they should do so during the interim period. Elections should be supervised by the British Government, but they would continue to administer the country.

7. The Patriotic Front's position was set out in the paper on transitional arrangements which they circulated early in the course of this Conference and later amplified. Their proposals called for complex power-sharing arrangements in the interim and re-structuring of the police and security forces in advance of the election.

8. Against this background, the British Government has reached certain conclusions. In the first place, the purpose of the ^{pre-independence} /arrangements is to allow the parties to put their case to the people under fair conditions. The pre-independence period should not be concerned with the remodelling of the institutions of Government. This will be a matter for the ^{independence} government elected by the people of Rhodesia. The essential requirement is that all parties should be free to put their policies to the people and should commit themselves to abide by the people's choice. The purpose of the interim period should be peaceful competition for power.

9. Secondly, the British Government proposes that the administration of Rhodesia during the election should be entrusted to the authority of the British Government, while the leaders of all parties explain their case to the people.

10. Thirdly, the British Government has concluded that, against the background of a war and the certain difficulties of a cease-fire, an interim period must not be excessively protracted, but must allow all the political parties adequate time to put their case to the people of Rhodesia. The longer the interim period lasts before the people of Rhodesia are given the chance to decide their political future for themselves, the greater will be the period of political uncertainty and the greater the risk of a break-down of the cease-fire. It is in the interests of the people of Zimbabwe that they should be enabled to choose their future leaders as soon as is reasonably possible.

11. Finally, it is clear to the British Government that whatever arrangements are proposed for the interim will be effective only if there is a genuine commitment by both sides to make them work. It is in the interests of all the parties to this Conference that there should be an end to the fighting and free and fair elections. The British Government is prepared to ensure the conditions under which those objectives can be achieved. But it can do so only if both sides accept its authority and its determination to ensure the impartiality of the election process.

The Machinery of Government

12. The British Government believes that it is only through a direct British involvement that conditions for elections, acceptable to both sides, can be created. To set in train the process which will enable free and fair elections to be supervised under its authority, as was agreed at the Commonwealth Heads of Government meeting at Lusaka, the British Government will appoint a Governor for Rhodesia, who will be British. The Governor's instructions will require him to do all things necessary to secure compliance with the conditions for free and fair elections.

13. The Governor will be established under an Order in Council which will confer on him executive and legislative authority. He will act according to the instructions given to him, for the fulfilment of his tasks, by the British Government. The Governor will have powers to make laws by Ordinance for the peace, order and good governance of the country. Legislative authority will not be exercised by any other body. Executive authority will be vested in the Governor and all public officers and authorities in Rhodesia, including the civil service, the police and the defence forces, will be required to comply with the Governor's directions.

14. There will be a Deputy Governor who will be British. The Governor will also have a Military Adviser, Police Adviser, Legal Adviser and Political Adviser and such other supporting staff as the British Government may decide are necessary to enable him to discharge his functions effectively, all of whom will be British. In the day-to-day administration of the country, the Governor will, however, work through the existing public service. The British Government see no practical alternative to this. It will be for the Governor to ensure that his

authority is effectively and impartially exercised.

15. The Order in Council providing for the establishment of the office of Governor will serve as the interim Constitution of Rhodesia. Provision will be made to carry forward existing laws. It will be for the Parliament to be chosen in free elections to decide which laws shall be continued and which shall be changed. It will be the Governor's duty to ensure that powers conferred by existing laws on public officers and authorities are not used in an arbitrary manner, or in such a way as to affect the conditions for free and fair elections. Allegations of improper activity by any public authority or any political party or its representative in the election campaign may be brought to the attention of the Governor or his Deputy, who will cause them to be dealt with.

16. All persons detained arbitrarily and on political grounds by any party will be released. The Governor will order a review of any such cases within his jurisdiction. The British Government will require to be satisfied that similar procedures will apply in the case of persons detained outside Rhodesia.

17. Once the Governor has arrived and his authority has been accepted in Rhodesia, Rhodesia will have returned to lawful government as a part of Her Majesty's dominions.

18. The Governor will proceed to Rhodesia as soon as possible after the conclusion of the Constitutional Conference. He will assume responsibility for the government of Rhodesia. All the political leaders will commit themselves to the election campaign. Bishop Muzorewa and his colleagues will not exercise ministerial functions during this period. The Governor will be responsible for the administration of the country on a caretaker basis. Heads of Ministries will report to him.

The Return of Citizens Living Outside Rhodesia

19. Many thousands of Rhodesian citizens are at present living outside the country. Most of them wish to return and it will be desirable that as many as possible should do so in order to vote in the election. The return of all refugees will be a task requiring careful organisation. But a start should be made in enabling the refugees to return

LORD CARRINGTON:

I can confirm that your forces, and the Rhodesian security forces, will be under the authority of the Governor. The Patriotic Front forces will be required to comply with the directions of the Governor. I am prepared to add such a provision to paragraph 13 of the paper we have circulated on the understanding, which you have just given me, that you will be able to agree the interim proposals, subject to the successful outcome of the negotiations on the cease-fire.

to their homes as soon as possible; and the British Government will be ready to assist with the process. The task of effecting the return of all refugees will need to be completed by the independence government in co-operation with the governments of the neighbouring countries.

Law and Order

20. In the event of an effective cease-fire, the necessity for martial law will disappear. The task of maintaining law and order in the pre-independence period will be the responsibility of the civil police. The police will act under the Governor's supervision, exercised through the Police Adviser and other British police officers. Special arrangements will be made by the Governor in consultation with the parties to ensure the protection of the political leaders in this period.

Defence

21.

The negotiation of a cease-fire will be the next task of the Conference as soon as there is agreement on the arrangements for holding elections and on the administration of the country in the interim period. Subject to this, the role of the military forces of both sides in the interim period will be to maintain the cease-fire. The commanders on both sides will be responsible to the Governor for this. The British Government proposes to establish machinery on which the military commanders on both sides will be represented, to ensure compliance with the terms of the cease-fire. The success of the arrangements proposed for the administration of Rhodesia in the period before independence will require all parties to commit themselves to accept the Governor's authority.

Legislative Procedures

22. The authority of the United Kingdom Parliament will be sought for the appointment of the Governor, the making of the Independence Constitution and the holding of elections under it. Legislation will

be submitted to Parliament as a matter of urgency so that the Governor may, without loss of time after his arrival, take the steps necessary to allow elections to be held.

23. A Bill will subsequently be introduced to provide for Rhodesia to become independent, following the holding of elections supervised by the British Government and held under the British Government's authority, and the establishment of a government of Zimbabwe on the basis of the Independence Constitution.

The Elections

24. The administrative arrangements described in this paper will be implemented in such a manner as to ensure that the elections will be held under the following conditions:-

- the administration of the elections will be fair and impartial as between all the political parties taking part;
- peaceful political activity will be freely conducted by all the parties to the election;
- there will be freedom of movement, assembly and expression during the election campaign;
- all parties will conduct their political activities within the law;
- all the parties will have free and uncensored access to the public media to put their case to the people of Rhodesia, and there will be freedom to advertise and to publish political views in the press;
- appropriate measures will be taken to ensure the security of all parties taking part in the election campaign.

25. There will be an Election Council, chaired by the Election Commissioner or his nominated deputy, who will be British. The Election Commissioner will invite each party taking part in the elections to be represented on the Council. The Council will have a general consultative function. Its individual members will be able to make representations to the Election Commissioner on any matter concerning the elections. The Election Commissioner and his staff will ensure that allegations of unfair practices are properly investigated and remedied.

26. Commonwealth Governments will be invited to send observers to the elections. Their role will be to observe that the elections are genuinely free and fair and that the British Government is carrying

out its responsibility to supervise them. No restrictions will be placed upon their movements, and every effort will be made to facilitate their task.

27. All political parties which register for elections will be free to take part in the elections. Any order banning or restricting a political party will be revoked.

28. The election will be held on dates to be decided by the Governor as soon as possible after he takes up office and his authority is accepted. Three consecutive days will be set aside for polling to take place.

29. The British Government will take the legislative action necessary to bring into force those parts of the Independence Constitution required for elections to be held and for Parliament to be constituted in the terms of the Independence Constitution. Relevant provisions of the Electoral Law currently adopted in Rhodesia will be applied at the Governor's discretion.

30. The Governor will be responsible for all aspects of the conduct of the elections. There will be an Election Commissioner with appropriate staff appointed by the British Government who will be responsible for supervising the elections to the full extent necessary to ensure that they are free and fair as between the parties participating in them. He and his assistants will keep themselves fully informed of all matters relating to the elections and will enquire as necessary into any aspect of the conduct of the elections.

31. Elections for the Common Roll seats will be held on a party list basis. The most practical procedure may be to divide the country into districts, each of which could be allocated a number of seats in proportion to its population. The election on the white roll will take place on the basis of existing constituencies.

32. The Governor will fix a date not less than four and not more than six weeks before the elections on which political parties wishing to contest the elections should apply for registration, name each electoral district for which they wish to be registered and provide a list of the candidates whom they wish to nominate for each electoral district.

33. The qualifications for voters and for candidates for election as Senators and members of the House of Assembly will be as provided in the Independence Constitution, except that, in view of the special circumstances prevailing at present, residence qualifications will not apply.

34. Registration of voters will not be required. But voters will be required as necessary to produce evidence of identity and eligibility to vote. Steps will be taken to prevent fraudulent and multiple voting.

35. The Election Commissioner will supervise the printing and distribution of ballot papers.

36. There will be freedom to campaign, hold political meetings and carry out canvassing. Appropriate measures will be taken by the Governor in consultation with the parties to ensure the physical security of all political leaders during the campaign.

37. Appropriate provision will be made for the conduct of the poll, the counting of votes and the declaration of results. Every voter will be free to cast his vote for the party of his choice.

38. Each party presenting candidates will be entitled to have one representative at each polling station in the district concerned to observe the polling. The Election Commissioner and his staff will make sample checks on polling stations throughout the country.

39. It will be the responsibility of the Governor to ensure adequate security at polling stations and the security of the ballot boxes.

40. The Governor, on the advice of the Election Commissioner will take appropriate steps regarding disclosure of election expenses, the definition of corrupt and illegal practices, and election petitions.

Conclusion

41. The British Government is confident that if these arrangements are accepted by the parties, it will be possible for them to resolve their differences by political means, thereby enabling the people of Zimbabwe to decide for themselves their future government and enabling them and the people of the neighbouring countries to live at peace.

The British Government urges the parties to take this opportunity to achieve these aims.

2 November 1979

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CC(79)55
TWENTY-FIFTH PLENARY SESSION

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Twenty-Fifth Plenary Session of the
Conference, Friday 2 November 1979.

Lancaster House
2 November 1979

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UK Delegation

Lord Carrington (in the Chair)

Sir I Gilmour Bt

Mr R Luce

Sir J Graham

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr A M Layden

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

Bishop Muzorewa and Delegation

Bishop A T Muzorewa
Dr S C Mundawarara
Mr E L Bulle
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Mr L Nyemba
Chief K Ndiweni
Mr I D Smith
Mr R Cronje
Mr C Andersen
Dr J Kamusikiri
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr D Zamchiya
Mr S V Mutambanengwe
Mr M A Adam

Mr Mugabe, Mr Nkomo and Delegation

Mr J M Nkomo	Mr R G Mugabe
Mr J W Msika	Mr S V Muzenda
Mr T G Silundika	Mr H Ushewokunze
Mr A M Chambati	Mr D Mutumbuka
Mr John Nkomo	Mr J Tungamirai
Mr L Baron	Mr E Zvobgo
Mr S K Sibanda	Mr S Mubako
Mr W Musururwa	Mr W Kamba
Mr C G Msipa	
Miss T Siziba	

Secretariat

Mr J M Willson

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The session commenced at 16.35.

THE CHAIRMAN delivered a statement (subsequently circulated to delegates as Conference Paper CC(79)57) to introduce the paper on detailed British proposals for implementing the Independence Constitution (Conference Paper CC(79)56).

At the end of the statement MR NKOMO said that he considered it important to note that the Chairman and the Conference were aware of the views of his delegation on the interim arrangements; on the position of the armed forces during the interim period; on the length of the interim period; and on a number of other important issues. They had not yet read the Chairman's paper, but when they did so they would look with care to see whether the British delegation had taken account of the views expressed in the various documents his delegation had presented.

Mr Nkomo continued that all must be satisfied that the British paper provided for conditions under which it would be possible for free and fair elections to take place; up to now he did not regard what had been proposed as creating those conditions. His delegation would let the Conference have their reply in due course; they would not be stampeded into accepting what the British regarded as the ideal conditions for free and fair elections. Unless they were satisfied with the conditions set out in the final document, they would not accept it.

BISHOP MUZOREWA said he would comment after his delegation had studied the British proposals.

MR MUGABE said that his delegation had reminded Sir Ian Gilmour the previous day that there were a number of important matters mentioned in the Patriotic Front document on which discussion had

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CC(79)76

COPY NO: 89

CONFERENCE PAPER

CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

The attached statement, delivered by
Mr Mugabe during the Thirty Third Plenary
Session, is circulated to delegates at his
request.

Lancaster House

15 November 1979

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not been concluded. He mentioned in particular the public service and the judiciary, which had not been discussed except from the point of view of governmental and political control during the interim period. Sir Ian Gilmour had appeared to think that it was unnecessary to discuss those matters further as views were already known. That was not so; the Patriotic Front had reserved their position on those matters. He then asked the Chairman how he proposed to cover them.

THE CHAIRMAN said that Sir Ian Gilmour had informed him of Mr Mugabe's comments the previous evening, and he had offered to hold a meeting that morning, but Mr Mugabe had not found it possible. If Mr Mugabe still thought there were matters which could be usefully discussed they could be taken at the next meeting. He hoped however that Mr Mugabe would also make some response to the paper which the British had tabled (CC(79)56).

The Chairman then suggested an adjournment until 10.30 on Monday 5 November,

The session closed at 16.55.

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CC(79)54
TWENTY-FOURTH PLENARY SESSION

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the Twenty-
Fourth Plenary Session of the Conference,
Thursday 1 November 1979.

Lancaster House
1 November 1979

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UK Delegation

Lord Carrington (in the Chair until 15.49)

Sir I Gilmour (in the Chair from 15.49)

Mr R Luce

Sir J Graham

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr R M J Lyne

Mrs A J Phillips

Mr M C Wood

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Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe	Mr J M Nkomo
Mr S Muzenda	Mr J W Msika
Mr J M Tongogara	Mr T G Silundika
Mr E R Kadungure	Mr A M Chambati
Dr H Ushewokunze	Mr L Baron
Mr J Tungamirai	Mr S K Sibanda
Mr E Zvobgo	Mr W Musururwa
Mr W Kamba	Mr C G Msipa
	Miss T Siziba

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Bishop Muzorewa and Delegation

Dr D C Mundawarara
Mr E L Bulle
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Rev. N Sithole
Mr L Nyemba
Chief K Ndiweni
Mr I D Smith
Mr R Cronje
Mr C Andersen
Dr J Kamusikiri
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr M Adam
Mr P Claypole

Secretariat

Mr J M Willson

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The session commenced at 15.03.

THE CHAIRMAN suggested that he might comment further on two points which had been discussed at the morning session. First, the Governor would arrive in Rhodesia as soon as possible after the Conference had ended; a cease-fire, which they hoped to negotiate, would take effect as soon as possible and from that point the election campaign would run for two months. Details would be discussed the following week if both sides agreed on the political framework of the interim period. He envisaged the cease-fire coming into effect very quickly; the period proposed in the Patriotic Front paper was very much longer than the British Government had in mind.

Secondly, on Commonwealth observers, he reiterated that elections would take place under British Government authority. Britain would supervise their conduct through the Election Commissioner and his staff. Commonwealth countries would be invited to send representatives to observe the process; there should be no mistake about the fact that it was the British Government's task to supervise the election.

MR MUGABE said that it was clear that the British Government adamantly refused to accept any of his delegation's arguments or proposals, no matter how rational. This caused some concern, if not real frustration. They were beginning to wonder what purpose the Conference was meant to serve if it was not designed to lead to the /capitulation

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capitulation of the Patriotic Front.

Mr Mugabe then put forward some further points regarding the transitional structure, leading on from his delegation's views expressed that morning. His delegation took an overall view of the transitional period.

When the Conference had started they had made clear their view that it was to establish peace; the peace process should entail the transitional arrangements proposed by his delegation. There had been a liberation struggle in Zimbabwe since 1966; his delegation had assumed the responsibility of decolonising the country and in doing so they had established formidable forces. Significant advances had been made, such as the acceptance of the principle of majority rule and the holding of this Conference. His was a party to be reckoned with, which held definite positions from which they could not be moved if the intention was to force them to capitulate. They were still ready, however, to reach a solution to achieve full sovereignty for the people and a peace honourable for all parties. They had built an army and police force which they wanted to see given a definite role alongside the forces of the other side during the interim period and afterwards.

His delegation had therefore proposed the integration of forces; they had proposed a Transitional Defence Committee comprising representatives of the Patriotic Front,

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the Rhodesian régime and Britain. This would have the function firstly of liaison between the Governing Council and the Cease-fire Supervisory Committee, both of which his side proposed, and secondly of starting the process of building the new Zimbabwe army - a process which should commence during the interim period.

His delegation had also proposed a Transitional Police Committee with representatives in equal numbers from the two sides, who would be appointed by the Governing Council and function under its authority. Its main proposed functions would be to supervise and maintain public order; to provide liaison between the Governing Council and the UN civil police force which his delegation proposed; and to commence the building of the new Zimbabwe police force.

His delegation also proposed a UN Peace Keeping Force alongside the Transitional Defence Committee. Peace had to be maintained; therefore, despite the proposed integration of forces, conflict might develop necessitating a third party. They therefore proposed UN involvement, both as regards the armed forces and the police. His delegation did not understand the rationale for the British refusal to accept UN involvement. The Rhodesian situation had long been a matter of concern to the international community and was regarded as a threat to international peace and security. There had been acts

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of aggression on neighbouring states, and South Africa had also made threats.

Mr Mugabe concluded by expressing again his anxiety that the British Government had relegated their forces to the rôle of mere observers of the cease-fire. The rôle of ensuring the security of the state in the interim period had been restricted to the Rhodesian forces as they stood; this was discrimination and bias. Why had Britain chosen to use the institutions of the régime and to refuse equal participation of those of his delegation? They could not accept a position of inferiority in a situation where they were moving towards victory - although victory might take time.

His delegation wanted peace and were prepared to take an equal position. They were not prepared to lay down their arms, however, if they were to lose political status. This was a crucial area and he asked the Chairman to re-examine the British position in the light of his delegation's principles and proposals. He was not saying that the Patriotic Front had to be assisted to power but rather that they had to have similar conditions to those accorded to the other side, whether administrative, military, political or legal.

THE CHAIRMAN responded that, when his delegation had put forward proposals on the interim period, they had taken into account the views of both delegations. The

/proposals

MR MUGABE:

In the light of the discussions we have had as a result of President Kaunda's proposals to the Prime Minister, if you are prepared to include the Patriotic Front forces in paragraph 13 of the British paper, we are able to agree to the interim proposals, conditional on a successful outcome of the negotiations on the cease-fire.

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proposals put forward had, in their view, been a compromise which should be acceptable to both the other delegations but which meant that both sides had to make concessions. He thought the concessions made by Bishop Muzorewa's delegation had been very considerable; some of those asked of Mr Mugabe and Mr Nkomo were also considerable. His delegation sought a peaceful settlement and the achievement of a fair compromise.

He pointed out that in essence the difficulty was that Mr Nkomo's and Mr Mugabe's approach to the interim period was totally different from that of the British Government. Mr Mugabe's and Mr Nkomo's delegation seemed to be harking back to a large extent to a variation of the Anglo/American Proposals of 1977. Objectively considered, these had been extremely elaborate and entailed a large degree of negotiation and difficulty on nearly every issue. In his judgement, they had failed because they had been too elaborate.

When the present British Government had taken office and had decided to seek a fair solution, it had endeavoured to learn by past mistakes. Genuine efforts had been made but all had failed. The chief reason the Anglo American Proposals had failed was that they had been too elaborate. His Government had therefore thought it right to propose something as simple and speedy as possible. Elaborate arrangements, like those in the Patriotic Front paper, would be almost impossible to negotiate.

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THE CHAIRMAN outlined again the main elements of the British proposals. They did not believe that it was possible to integrate the forces in the short period concerned and in the context of elections. They believed it better that the Governor should assume responsibility and use the instruments at his disposal fairly and impartially under instructions from the British Government.

The Chairman concluded by saying that he understood the difficulties faced by both visiting delegations. His Government believed that their proposals were the only way to proceed in the present very difficult circumstances and very late hour at which the Conference was being held. He therefore found it difficult to accept Mr Mugabe's delegation's arguments, however logical they might be in the abstract. MR MUGABE said in response that there were two armies and both should therefore be treated fairly. The Chairman was denying the principles of the equality of treatment of the forces.

Mr Mugabe said that the British proposals set out to assume control of the Rhodesian forces. Was he expected to put his own and Mr Nkomo's forces in an inferior position where they would be given orders by the Rhodesian forces? Their forces would merely be observing the cease-fire. What would happen in the event of an invasion? SIR I GILMOUR said that Mr Mugabe had said earlier that the armed struggle had been going on since 1965/66 and the British Government

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had done nothing about it. Now the British Government wanted to take steps to decolonise Rhodesia and were being criticised for being too active by putting in a Governor and taking over the administration and the forces of both sides. He reminded Mr Mugabe of what he had said the previous day: that Patriotic Front forces would be responsible to the Governor, as would the Rhodesian security forces, for the maintenance of the cease-fire. No one was talking of excluding the forces of either side. The responsibility for the maintenance of law and order would rest with the police. Mr Mugabe seemed to envisage an invasion in which only the Rhodesian forces would be involved, and there seemed to be an element of fantasy in this.

MR MUGABE said that he envisaged that there might be riots or a revolt which the police alone would not be able to suppress. Which forces would be used in such a case? SIR I GILMOUR said that all this seemed to relate more to the cease-fire arrangements which would be discussed the next week. The British did not anticipate revolts or riots. The maintenance of law and order in this period would be the responsibility of the police, and the Governor would act in consultation with his British police advisers. MR MUGABE said that there were separate functions for the police and the army in normal circumstances. However, at present they carried out combined operations, and there might be a rôle in the country to be performed by the security forces as distinct from the police forces. Who would the Governor bring in? SIR I GILMOUR said that the British envisaged an election when there would be a cease-fire in effect; there would be no question of combined operations and there was no rôle for the army in the

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electoral process. Law and order would be a matter for the police, not the army.

MR NKOMO said that the British proposals stated that the Governor would take charge of the existing forces and the existing police forces. There would also be a cease-fire to be entered into by the two forces; this was a separate matter. What was the position of the Patriotic Front forces in the context of the British proposals?

THE CHAIRMAN said that the whole basis on which the proposals would operate was within the context of a cease-fire, which meant that people would not be shooting each other. The British Government did not envisage that there would be any fighting, and the forces of both sides would be answerable to the Governor for the observation of the cease-fire. The existing police force would be used to maintain law and order; the police force of the Patriotic Front would not be used. MR NKOMO asked what would happen in the event of an incident arising which was too big for the existing police forces to control. Would the Governor use the existing forces?

THE CHAIRMAN said that this was the sort of question which should be discussed under the heading of the cease-fire; the short answer however was that it would be for the Governor to decide.

After some further discussion on this point Sir I Gilmour took over as Chairman.

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THE CHAIRMAN said that he could not speculate about an invasion, but the Governor would be responsible for law and order; under a cease-fire the military forces would not have a rôle.

MR NKOMO said that Lord Carrington had been straight in saying that the Governor would use the existing police force and not the Patriotic Front police. The wording in the British proposals was the same for both the police and the military forces, and he assumed that the answer for the military forces was the same as for the police. THE CHAIRMAN said that this was an inaccurate gloss on Lord Carrington's statement; a distinction had been made earlier between the forces and the police.

MR ZVOBGO said that the British proposals, which had been accepted by the other side, were not explicit, and the Salisbury delegation had said outside that they were not going to resign. The existing police force was highly politicised, as also was the present public service in the country. At the time of UDI the police had placed the Governor under house arrest. They had obeyed orders without question, as also had the public service when they had been told to draft the 1965 UDI constitution. There was no neutral administration for the Governor to take over. If the Governor were not to use the Patriotic Front forces, then the régime's forces should be neutralised.

THE CHAIRMAN said that both the British and Salisbury
/delegations

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delegations had said that the latter would not exercise their functions during the elections; this was a major concession. The Governor was there to see that the police force was impartial, and there was nothing to be achieved by going back into the past. The British proposal meant the appointment not of the representative of the constitutional Monarch, but of an executive Governor with wide powers. This was quite different from the position under Sir Humphrey Gibbs. This election would be a very public affair and there would be enormous international interest, with many journalists present, as well as the observers, who would report back all that they saw.

MR TONGOGARA said that his delegation would find it extremely difficult to explain the British proposals to their forces; they were a recipe for the continuation of fighting rather than for peace. THE CHAIRMAN said that the mechanics of the cease-fire could be discussed the following week - he agreed that was a vital part of the Conference.

MR BARON expressed concern about the position of those presently functioning as Ministers and of the police in the interim period in their rôle of maintaining law and order. The British delegation had said that nothing should be done by either side which might pre-empt or prejudice the freedom of choice of any voter, a principle accepted by his delegation. Those at present performing ministerial functions would continue to assert that they were ministers during the election period. Moreover, the minds of the
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people would be prejudiced by the fact that the forces maintaining law and order continued to carry out their functions to the exclusion of the Patriotic Front forces. THE CHAIRMAN made the point that in many countries the forces of law and order and the politicians were not popular. MR BARON pointed out that elections would take place after a very lengthy war: the police force would continue to be feared. His delegation had asked that the forces be neutralised. Under the British proposals, however, one side had a clear psychological advantage. THE CHAIRMAN replied that the police would be neutralised by coming under the authority and orders of the British Governor.

DR USHEWOKUNZE said that under the British proposals the Governor would be Commander-in-Chief of the existing forces; who would be Commander-in-Chief of the Patriotic Front forces? On whom would the Governor call to quell cease-fire breaches committed by the existing forces? The British had a history of riding rough-shod in Kenya, India and Northern Ireland, rather as they were doing in this Conference. His delegation wanted equality for everyone and equality started in the interim period. THE CHAIRMAN commented that looking at history would not assist the discussion; nor was he riding rough-shod over the Conference. In relation to the position of the armed forces he then read the third sentence of paragraph one of CC(79)52. The

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cease-fire was not for discussion at this point but presumably in situations under the cease-fire the Governor would call on both Commanders to observe it and call off their troops.

MR NYANDORO made the point that his delegation had achieved office through the ballot box. DR MUNDAWARARA stated that his delegation had agreed to stand down, not because they did not feel they had the right to remain in government, nor in order to gain advantage to win the election, but to make it possible for the Governor to exercise his authority so that the people of the country could benefit.

MR SILUNDIKA commented that the British delegation had made no effort to enquire as to the nature, size or quality of the Patriotic Front's police force, nor about their discipline or their ability to maintain peace in the interim period.

He also commented that the British delegation's statements on the rôle of the military forces lacked clarity. In paragraph 9 of paper CC(79)49 it was stated that the "essential task of the military forces of both sides will be to maintain that cease-fire". In another paper however (CC(79)46, paragraph 6) it was said that the Governor would assume authority over the defence forces and their commanders would report to him. What would they report about? The cease-fire? In any case that did

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not apply to the forces of the Patriotic Front. He wanted clarification; did the British delegation perhaps mean that the military forces of the Patriotic Front and the Rhodesian régime would have an equal status in law and neither would perform functions greater than those of the other? Such wording might provide the basis for better discussion.

MR LUCE referred to the British record in Kenya, where he had served as a District Officer, and said that this was a record of which the British could be justly proud. The British record was one from which those who felt anxious could derive reassurance. The British aim was to get two things settled and of these the constitution had now been agreed, subject to agreement on the interim period. The second was to create conditions which would lead to elections which were free and fair. The British pre-supposed that it would be possible to reach a political agreement not just on the constitution but on the pre-independence arrangement which would include an agreement on a cease-fire. Once this was achieved the responsibility would be on the shoulders of all parties concerned to see that the conditions were fulfilled. Anyone who infringed that agreement would bear a very heavy responsibility in the eyes of the world.

If there were any complaints the Governor and the Election Commissioner would ensure that they were properly investigated. Following elections the new government would be appointed, and it would be up to them to look at the
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situation of the police, the defence forces and the civil service.

MR NKOMO said that the Conference was considering a war situation which involved two forces, those of the Patriotic Front and of the Rhodesian régime and the British were saying that free and fair elections could take place with one being regarded as a security force and the other merely to observe the cease-fire. The British were in effect asking his delegation to accept that the Patriotic Front forces had been defeated by the Rhodesian forces and asking them to surrender. If the British could not accept the Patriotic Front forces they should freeze the two forces and bring in another force from outside. THE CHAIRMAN said that the British were under no illusion about the war and they were not asking for a surrender. They were asking Mr Mugabe's and Mr Nkomo's delegation to agree to compete peacefully for power and were trying to create conditions under which this could be done. There was a de facto administration in Salisbury with police and defence forces, over whom the Governor would assume authority. Both military forces would have responsibility for maintaining the cease-fire but law and order was the responsibility of the police.

MR KAMBA asked whether the observance of the cease-fire was the only function of the security forces. THE CHAIRMAN said that he did not envisage any other function;

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CC(79)74
CONFERENCE PAPER

COPY NO 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by the Chairman during the Thirty Second Plenary Session of the Conference, is circulated to delegates at his request.

Lancaster House
14 November 1979

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it was the Patriotic Front which had mentioned the possibility of an invasion. MR I D SMITH said that he did not know where the idea of Sir Humphrey Gibbs having been detained at the time of their independence had come from, but this was not correct. He had merely had a normal police guard and there had been no confinement. The point had also been made earlier that the war started in 1965 but in fact the first attack across the Zambesi had been in 1961; it had nothing to do with UDI. It had been implied that work on a new constitution had been started prior to the declaration of independence but this was not so. In fact the constitution came into force some years later.

MR MUSURURWA said that the terms being offered by the British amounted to capitulation terms. The British were the arbitrators and he asked what criteria had been used to determine which of the two forces would be used to maintain law and order in the interim period.

MR KAMBA asked for clarification about the Order in Council which would in effect be the constitution of the country during the interim period. Would it amount to a constitution and would its provisions be made known to the Conference? MR FIFOOT said that the interim constitution which was being proposed by the British was very limited, and would be encompassed principally in the terms of an Order in Council. It was anticipated that the British would have to make reference to other provisions and probably

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that the Governor under his legislative powers would have to make ordinances of a constitutional nature to deal with various powers. It was not possible to draft the Order in Council until the Conference had reached a conclusion, but when there was agreement it was hoped to produce a paper.

THE CHAIRMAN said that there had been full discussion over the last three days and the British Government would now consider and table its fuller proposals the following day; he suggested a meeting at 16.30. The Chairman hoped that both delegations would then be able to consider the proposals and say whether they felt able to accept them, subject to agreement on the cease-fire.

MR MUGABE said that his understanding was that the debate was only half complete. There was still the cease-fire to discuss; would there be a document for the part already discussed as well as a further one covering the cease-fire? THE CHAIRMAN confirmed that this was the case. MR MUGABE said that he thought they were working towards a document to cover all aspects of transition. The position of the judicature and the civil service had not been discussed. THE CHAIRMAN said that he had already made it clear that the cease-fire would be discussed the following week. Provisional agreement on what had been discussed would be subject to whatever transpired during the cease-fire discussions.

MR BARON referred to what the Chairman had said the previous day about reverting to a number of items, and wondered when these were going to be discussed. THE CHAIRMAN
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said he thought these points, for example the registration of voters, had already been dealt with. He said he thought the way to reach agreement was to agree to a constitution as had been done, contingent upon a final agreement. The interim arrangements had now been discussed in considerable detail. The British had asked for a cease-fire at the beginning of the Conference and the Patriotic Front had said that it should be dealt with at the end. The record showed that there had been very full discussions. The logical way to proceed was to move step by step, and the British would table their fuller proposals at 16.30 the following day.

MR NKOMO said that the discussion had not been concluded. There were still areas of disagreement. He asked whether another British paper meant there was to be wider presentation and discussion, and the introduction of new ideas. THE CHAIRMAN said that the British paper would not contain wider proposals but an amplification of proposals already tabled. It would not include anything which had not been fully discussed. He was sure there were points on which both parties would disagree, but hoped that they would study the paper in detail in a spirit of compromise and give their agreement.

The session ended at 17.15.

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COPY NO: 89

TWENTY-THIRD PLENARY SESSION

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of proceedings of the Twenty-Third
Plenary Session of the Conference, Wednesday
1 November 1979.

Lancaster House
1 November 1979

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UK Delegation

Lord Carrington (in the Chair)

Sir I Gilmour Bt.

Mr R Luce

Sir J Graham

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

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Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr E L Bulle
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Rev. N Sithole
Mr L Nyemba
Chief K Ndiweni
Mr Z M Bafanah
Mr I D Smith
Mr R Cronje
Mr C Andersen
Dr J Kamusikiri
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr M A Adam

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Mr Mugabe, Mr Nkomo and Delegation

Mr J M Nkomo	Mr R G Mugabe
Mr J W Msika	Mr S V Muzenda
Mr T G Silundika	Mr J M Tongogara
Mr A Chambati	Mr H Ushewokunze
Mr L Baron	Mr J Tungamirai
Mr S K Sibanda	Mr E Zvobgo
Mr W Musururwa	Mr S Mubako
Mr C G Msipa	Mr W Kamba
Miss T Siziba	

Secretariat

Mr J M Willson

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The session started at 11.39.

THE CHAIRMAN said that he understood that there had been two full sessions the previous day in which a great deal of work had been done. He asked whether either delegation had any further questions on the British proposals.

MR NKOMO said that he thought that it would be appropriate for certain vital issues concerning the Governor and his administration to be discussed. The British had given the Governor many functions, and had explained their reasons for proposing that his stay in the country should not be a long one. Time would be needed to get the country going again and it was important to provide security for everyone. There was need for an administration which would bring in local people from within and from outside the country. His delegation had proposed a Council to work with the Governor, with equal numbers from the other side and the Patriotic Front. There had to be people close to the Governor to ensure that the cease-fire was maintained and the administration kept running. His delegation now suggested that the Governing Council should comprise the Governor, 4 members of the Patriotic Front and 4 from the Salisbury delegation. He considered that cohesion and cooperation were vital during the period of transition and for the future. He reminded the meeting that most of the forces on both sides were people of the country, and it was essential that they should be seen to be co-operating, if only in a small way.

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The Patriotic Front had moderated their proposal and reduced their suggested representation. This was not a question of feasibility but of numbers and it could work.

MR NKOMO went on to say that an interim period of 6 months would not be too long. If the British persisted in pressing for 2 months, they might find that they had to stay longer because the cease-fire would not have taken root. The British Government would then be blamed for any troubles which might ensue after the interim period.

THE CHAIRMAN said that he suspected that this point had been discussed the previous day - and certainly during earlier meetings. Mr Nkomo talked of the British leaving the country; Britain would do only what it believed to be its duty and Mr Nkomo was under-estimating the political determination of the British Government in putting forward their proposals.

The British maintained that there should be a very short period which would be taken up in contesting an election; the idea that a process of power sharing could go on at the same time was unrealistic. Political parties were not at their most friendly at election time. That was why the British wanted the period to be short.

There had to be machinery for those taking part in an election to make known their views to the Governor or to the Election Commissioner; that was why the British had proposed an Election Council. They did not think that a power-sharing Advisory Council would be feasible at a time when the parties were struggling to win power. The British would later

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be proposing a Cease-fire Commission which, together with the Election Commission, would meet those needs. In the short period available the Governor would administer Rhodesia for the good of the people as a whole.

SIR IAN GILMOUR said that he thought everyone agreed with Mr Nkomo on the principle of reconciliation but that the period of an election was not an ideal time for reconciliation. An election had a divisive effect; British experience of power sharing, for example in Northern Ireland, had not been satisfactory. The security of all those fighting the election, especially the party leaders, was a vital matter which would be the responsibility of the Governor.

REV. SITHOLE sought clarification on the proposal of a Governing Council with equal representation between the Patriotic Front and his delegation. MR NKOMO said it was a compromise between the groups present. The REV. SITHOLE said that the Patriotic Front represented only one party and the Government of National Unity group represented four parties. MR MUGABE asked whether that statement reflected the general view of the entire Salisbury delegation, as he understood them to be one delegation and not four. THE CHAIRMAN said that, so far as he was concerned, this question did not arise since the British did not believe that the establishment of a Governing Council would be the right procedure, but it did illustrate the difficulties which could occur over a Governing Council. There could well be other parties in Rhodesia who would want a place on a Governing Council.

LORD CARRINGTON:

I would now like to clarify further a number of aspects of our proposals.

The British Government fully recognises that all parties must be able to take part on equal terms in genuinely free and fair elections. It is for this reason that they decided, after the Lancaster House Conference had reached agreement on the Independence Constitution, to offer to appoint a British Governor with executive and legislative authority to take charge of the administration of Rhodesia during the election period. This was not an easy decision. Britain has never before been directly responsible in this way for the administration of Rhodesia. But the Government took this step because it had become convinced that only in this way could all the parties feel confidence in the impartiality of the administration during the interim.

The British Government has always taken the view that the Independence Constitution should be implemented as soon as is consistent with the holding of free and fair elections. Their starting point was that the election period need not last more than four to six weeks. But they have taken account of the strongly held views that it should be longer, in eventually deciding that it should run for two months from the date when a cease-fire becomes effective. It will take up to two weeks to bring the cease-fire into effect. The election will be held eight or nine weeks after the cease-fire comes into effect.

The British Government fully accepts that the electoral

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MR SILUNDIKA said that he would respond to Rev. Sithole on the principle of the matter. There were two processes during the interim period; first, there was the British Governor and the process of elections; secondly there was the day-to-day activity of Government departments, which might also affect elections. Advice from civil servants who had worked for the previous government might be biased. His delegation thought it essential that there should be a Governing Council, independent of the election campaign, to advise the Governor.

THE CHAIRMAN, answering Mr Silundika's last point, said that the Governor would not take any legislative action or advice in circumstances which would affect elections or the future of the country; if he did, it was a matter for the Election Council and the Election Commissioner. MR SILUNDIKA asked whether the British delegation were saying that the Election Council would advise the Governor on all matters likely to affect the conduct and state of the country, since any of these might indirectly affect the elections. THE CHAIRMAN replied that they were not saying this. The Governor would be in charge of many aspects of the day-to-day administration which had nothing to do with elections. Matters relating to elections could be raised in the Election Council and, through that body, with the Election Commissioner.

MR MUGABE, commenting on the British proposals, said that the Governor would assume control of departments of the existing Government; in doing so he would acquire the

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instruments of the régime, thus prejudicing his delegation's position and creating favourable opportunities for the other side. Under his delegation's proposals there would be a Governor who would be head of state and commander-in-chief of all the forces, both those of the Rhodesian régime and those of the Patriotic Front. Under him there would be ministers who would constitute the Governing Council and be in charge of the various Government departments. The latter would be under the joint control of both sides, thus eliminating prejudice. The Governing Council was intended to improve the position. A partnership was needed for the Governing machinery, involving the British at the head and the other two delegations. The British, however, had chosen to tip the scales against his delegation. He called for the adoption of an objective standard making for equality; if his delegation's proposals were refused, the British delegation were opting for inequality. THE CHAIRMAN responded that the proposals envisaged by Mr Mugabe and delegation would create just that difficulty. His delegation envisaged no decisions in terms of legislation or administration in the interim period which would alter the balance. The administrative machine would merely tick over on a day to day basis; routine Government activities, which bore no relation to an election, had to carry on. Trying to put the two sides together raised many problems, such as that of the balance which would be needed. This explained why his delegation did not want such arrangements and why the interim period had to be short.

/MR MUGABE

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MR MUGABE said that the British delegation had opted for an imbalance in favour of the Salisbury delegation. It was not true that the administration had nothing to do with elections. Take, for example, the role of the Department of Internal Affairs (formerly that of Native Affairs), which had been known to exert pressures on chiefs and tribesmen in rural areas.

SIR I GILMOUR commented that there was no alternative to acting through the existing civil service. He repeated that the Governor would have executive and legislative powers. There would be no imbalance, because no political party would have executive authority during the elections. But, as the Chairman had said, party leaders would have access to the Governor.

In response to a question from Mr Mugabe, THE CHAIRMAN confirmed that the existing heads of department would be used. MR MUGABE pointed out that these had been committed to UDI and had operated against his delegation. Would they be transformed into objective people once a Governor assumed control? THE CHAIRMAN replied that Mr Mugabe's fears were not justified. SIR I GILMOUR made it clear that the Governor's conduct of the administration had to be neutral between the parties, and seen to be so. MR MUGABE then recalled the example of the declaration of the state of emergency on 5 November 1965, after which the Governor had been imprisoned and all departments had opted to serve the /régime

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régime. THE CHAIRMAN replied that the Governor now envisaged was of a different kind, and that the analogy was not apt. All sides had to trust the impartiality of the British Governor who would be operating impartially through the existing machinery in the country. SIR I GILMOUR confirmed that the Governor proposed would be of quite a different sort; he would have full executive powers whereas the Governor in the old days had not.

MR MUGABE commented that the British Government were supposed to be the administrators of Southern Rhodesia, but the machinery of Government had refused to obey them after UDI. He did not believe that the civil service would become impartial merely because the Governor assumed full executive and legislative powers. THE CHAIRMAN commented that what was relevant was what happened in practice. It would be the Governor's task to ensure that the rules were kept. In response to a query from MR MUGABE, THE CHAIRMAN said that the exact staff of the Governor would have to be decided. He again commented that there had to be trust from both sides. Bishop Muzorewa's delegation had accepted the powers of the Governor for the short period concerned. Both sides had to trust the British Government and assist the Governor. MR MUGABE commented that Bishop Muzorewa's delegation had accepted the British proposals because in doing so their exercise of full power in the interim period had been accepted by the British Government. THE CHAIRMAN said that this was the wrong way of looking at the situation.

/MR MSIKA

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MR MSIKA asked for clarification of what was meant by the Governor's staff - how many there would be and what role they would have. THE CHAIRMAN replied that the staff would be adequate to carry out their functions (although obviously they would not be numbered in hundreds) and would assist the Governor. The Chairman then quoted paragraph 7 of Paper CC(79)46 in amplification.

MR SILUNDIKA then made the point that the Governor would need advice. The proposed Election Council was consultative but would not advise in the general running of the country. Why could his delegation's suggestion not be considered - it envisaged a small group to advise the Governor, in comparison with the thousands of public service officers. THE CHAIRMAN reiterated that the suggestions of Mr Mugabe, Mr Nkomo and delegation were impossible to achieve in the kind of interim period envisaged by the British Government. In response to queries from MR NKOMO, THE CHAIRMAN said that the period envisaged was two months from the moment the cease-fire took effect. First of all a cease-fire would be negotiated; it would then take effect and the period would commence. MR NKOMO stated that the ceasefire could not be separated from the machinery of the interim period. He asked what the British Government thinking was on the length of time needed for the implementation of the cease-fire. THE CHAIRMAN replied that that question would be discussed during discussion of the cease-fire. /MR NKOMO

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MR NKOMO reiterated that this could not be discussed in isolation; the cease-fire could not be separated from the elections. THE CHAIRMAN replied that the important thing to know in the present discussions was the period the British Government believed right for electioneering once the cease-fire took effect: in their view this was two months.

MR NKOMO said a cease-fire would take 4 months to implement. He then asked when the Governor would arrive in the country; would it be after the cease-fire or before?

THE CHAIRMAN said that at the start of the Conference it had been proposed that the arrangements for a cease-fire would be the last item on the agenda. He wanted to go step by step to get agreement. In the judgment of the British Government there should be an interim period of 2 months for electioneering after the cease-fire had taken effect. After the Conference had agreed to these principles he proposed to go on and talk about a cease-fire. MR NKOMO said that all he wanted was an idea of the time scale involved in all these processes. THE CHAIRMAN said that the Governor would arrive at the time the cease-fire began. SIR IAN GILMOUR added that the Governor could arrive after a cease-fire had been agreed, but before it had become operative. There would be certain advantages in this. MR NKOMO said that this meant that once the cease-fire had taken effect 2 months would be allowed for elections. This would mean a total period of 4 months to bring about a cease-fire and then allow electioneering. He thought it important that the Governor should be

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present in the country for the whole period.

MR MUZENDA said that the commanders of the forces involved would have to remove mines from roads and this would take time before it would be safe to travel. It could take as much as 4 or 6 months or even longer to clear the whole country.

THE CHAIRMAN said that the British hoped the Governor would be able to arrive as soon as possible after the end of the Conference, and that the cease-fire would begin as soon as possible after the end of the Conference. These two events would not necessarily take place at the same time. Mines were still being dug up 35 years after the end of World War II - they could not wait for this to be done before implementing a cease-fire in Rhodesia. MR TONGOGARA said that the effectiveness of a cease-fire involved not only stopping the shooting; there were other factors. There were areas which were at present 'no-go' areas, perhaps because of mines or for strategic reasons. THE CHAIRMAN said that the Conference seemed to be discussing the modalities of a cease-fire, and that that was for the next stage. The sort of period Mr Mugabe and Mr Nkomo were talking about was not the sort of period the British were talking about, They wanted it as quickly as possible and the sooner it was done, the better.

MR NKOMO said that there were other processes leading to an election, such as the registration of voters, which could not be done until after a cease-fire had taken effect.

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As for constituencies, he was not thinking in terms of regional or tribal groupings, but of the country as a whole. It was important that, whatever system was adopted, the size of the electorate should be known. If the cease-fire implementation period was x and the registration/delimitation period was y, the total period would be $x + y + 2$.

He went on to ask about the part to be played by the Commonwealth observers as set out in the Lusaka agreement. His delegation had proposed a United Nations force but this was in connection with the cease-fire and would not be discussed at that time. During the period of electioneering it was suggested that a group of Commonwealth observers should be present. He asked what the word "observe" really meant in an international context. The Commonwealth observers would come under British authority. There was a difference between British authority, which was not in question, and supervision. The British could not supervise themselves; it must imply supervision by some agent other than the British. His delegation sought clarification of the position of Commonwealth observers and of what supervision entailed. His understanding of the Commonwealth agreement at Lusaka was that observation would begin not at the election stage but at the planning stage. He did not agree with the British on the question of supervision; somebody else had to supervise the British, but under British authority.

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THE CHAIRMAN said that, as time was moving on, he proposed to answer the various points raised during the afternoon; he suggested a further meeting at 15.00.

DR MUNDAWARARA asked that for the sake of progress the Conference should stick to one subject at a time. His delegation had accepted the British proposals about the period of the election and understood that the period of 2 months was to be the full period with no x's and y's added to it.

The session ended at 12.55.

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COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by the Lord Privy Seal during the Twenty Second Plenary Session of the Conference, is circulated to delegates at his request.

Lancaster House
31 October 1979

arrangements themselves must be seen to be scrupulously fair to all parties who must have an equal opportunity to conduct their election campaign. They therefore decided to appoint a very senior and experienced British official as Election Commissioner, with a very substantial supporting British staff which will total over 100. They will impartially supervise every aspect of the electoral process. The staff will include officials with wide experience of the holding of elections both in Britain and in developing countries. Every precaution will be taken to guard against electoral fraud and malpractice.

The British Government took full account of the Patriotic Front's proposals for an Election Commission in making their proposals for an Election Council. All parties will have equal status on the Council. Any of its members will be free to make representations to the Election Commissioner on any matter relating to the elections, ie organisation, administration, access to the media, public meetings etc. This is a very wide mandate indeed. The Council will have no connection with the existing machinery of government. It will meet as frequently as the members wish and the parties will be free to decide the level at which they wish to be represented on it.

The practical arrangements for a cease-fire and the associated military questions will be for discussion in the third and final phase of the Conference - the negotiations on the cease-fire. But the British Government recognises that they must take full and fair account of the concerns of all parties to the election. It is for this reason that we propose the establishment of a Cease-fire Commission on which the military commanders on both sides will be represented. The role of the military forces on both sides

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LORD PRIVY SEAL:

At this morning's session, the Patriotic Front put forward a number of questions which I now propose to answer.

1. What will be the status of the Patriotic Front's forces in the interim period? Why is it that the Defence Forces of the régime are made responsible to the Governor but not those of the Patriotic Front?

You would be the first to complain, Mr Nkomo and Mr Mugabe, if the Rhodesian defence forces were not made responsible to the Governor. The Governor must assume authority over all aspects of the administration of the country. When it comes to the rôle of the military forces in this period the position will be that the Patriotic Front's forces will be responsible to the Governor, as will the Rhodesian security forces, for the maintenance of the cease-fire. No-one is talking of excluding the forces of either side. The responsibility for the maintenance of law and order in the period before the election will rest with the police.

2. How can we reconcile the statement that the Rhodesian defence forces will be responsible to the Governor with the observance of a cease-fire?

I would have thought the two elements were inextricably inter-linked. The Patriotic Front forces will also be responsible to the Governor for the maintenance of the cease-fire. The maintenance of law and order will be a matter for the police acting under the Governor's authority.

3. Why will the Governor rely on the existing police?

The responsibility for the maintenance of law and order
/will

will rest with the police. There is no practicable alternative to this. The police will act under the Governor's supervision and authority.

4. Why is it not possible to have a new electoral law?

We are talking about holding elections as soon as possible. The essential requirement is that the entire adult population should be enabled to vote; and that there should be fully adequate safeguards against multiple voting and other mal-practices. It will be for the Governor and the Electoral Commissioner, having consulted the parties, to assure themselves that this is so.

5. Why can there not be an Electoral Commission as proposed by the Patriotic Front?

The tasks proposed for the Electoral Commission in the Patriotic Front's paper were to carry out registration of voters, the delimitation of constituencies, the appointment of registering officers and to conduct the pre-independence elections. We have already explained why we do not regard the first two as feasible. The task of supervising the election is one for the British Government, and will be carried out by the Election Commissioner and his staff. We cannot have two bodies performing the same function. But our proposals do provide for an Election Council on which all parties will be represented and which will have a general consultative function.

6. Why can there not be a Governing Council?

I went into this question at considerable length this morning. It will not be the task of the political leaders in the interim period to try to conduct the administration of the /country

country. Their tasks will be to explain their policies to the people of Rhodesia and it will be for the people to decide whom they wish to form their future government. The Governor will hold the government in trust on behalf of the people while the election campaign is fought.

7. Why cannot there be registration of voters?

We have been into this question several times already. We do not believe that the task could be completed in the conditions prevailing in Rhodesia for many months. Even in peaceful conditions a full registration would be an immense task. In the immediate aftermath of a war, with all the consequent disruption, it is simply not feasible. Registration will be a priority task for the government elected in these elections.

8. Why should there be only one representative of each party at polling stations?

This is an entirely practical question. The role of such representatives will be to assure themselves that the polling is conducted fairly. One representative is enough, although there could be rotation. Larger numbers could give grounds for accusations of intimidation or other unacceptable activities.

9. Would it be the rôle of Commonwealth observers merely to look at the polling or would they have a part in the entire electoral process? Why should there be any restriction on numbers?

Commonwealth governments will be invited to send observers to observe the electoral process. This does not mean that they

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will be present only on polling day. But it must be clear that the supervision of the elections and the administration of the country during the campaign is our responsibility. The question of limiting numbers is purely a practical one. We are not proposing at this stage a specific figure, but clearly the numbers cannot be limitless.

10. How will the Governor ensure that powers carried over under existing laws will not be abused? What will the Governor's powers be? Will the Conference see the Order in Council appointing the Governor?

The Governor will have authority over the civil service and the police and, with the help of his advisers, will be able to supervise the activities of these bodies. If there are complaints about them, the Election Commissioner or the Governor will have to look into them. As our proposals say, the Governor will have full executive and legislative powers. I do not think that one can usefully add to that. The Order in Council will be published after it is made. It will state the position as I have described it, only in legal language.

11. What will be the position of members of the present Government in Salisbury?

Bishop Muzorewa and his colleagues have agreed that the British Governor will exercise extensive powers and conduct the day-to-day administration of the country. Bishop Muzorewa and his colleagues have agreed not to exercise their Ministerial functions. It will be for the people of Rhodesia to decide who shall be their future Prime Minister and Ministers.

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12. What will happen to the present Parliament?

Legislative authority will be exercised by the Governor. It will not be exercised by any other body.

13. Why are there so many references to security in the proposals?

Obviously free and fair elections require adequate security. The cease-fire will be an essential element in this. The police, acting under the Governor's authority, will ensure law and order. Arrangements will be made for the security of political leaders campaigning; and for the security of polling booths and ballot boxes.

14. What certainty will there be that powers under existing laws would not be abused?

The Governor's principal task will be to ensure the conditions for free and fair elections. This would be impossible if powers are abused. We hope that conditions during the elections would be as near normal as possible. If there is a cease-fire, there should be no need for martial law.

15. What guarantees will there be against fraud in elections without registration?

There are various means of ensuring that people do not vote twice. The British Election Commissioner and his staff will need to satisfy themselves that whatever methods are adopted are fully adequate for the purpose. The parties will be represented at the polling stations. It will be up to officers conducting the poll to check the eligibility of those wishing to vote. The Election Commissioner and his

/staff

staff will provide supervision and there will also be Commonwealth observers.

16. Would those in detention be allowed to vote?

We have appealed to both sides to release all persons detained arbitrarily so that they can take part in normal political activity.

17. What will be the position of auxiliaries?

Any forces which breached the cease-fire would be answerable to the Governor.

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COPY NO

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TWENTY-SECOND PLENARY SESSION

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Twenty-Second Plenary Session of the
Conference, Wednesday 31 October 1979

Lancaster House
31 October 1979

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PRESENT:

UK Delegation

Sir I Gilmour Bt (in the Chair)

Mr R Luce

Sir J Graham

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr C D Powell

Mr A M Layden

Mr S J Gomersall

Mrs A J Phillips

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Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe
Mr S V Muzenda
Mr J M Tongogara
Dr H Ushewokunze
Mr J Tungamirai
Mr E Zvobgo
Mr S Mubako
Mr W Kamba

Mr J M Nkomo
Mr J W Msika
Mr T G Silundika
Mr A M Chambati
Mr L Baron
Mr S K Sibanda
Mr W Musururwa
Mr C G Msipa
Miss E T Siziba

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Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr E L Bulle
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Mr L Nyemba
Mr Z M Bafanah
Mr I D Smith
Mr R Cronje
Mr C Andersen
Dr J Kamusikiri
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr D Zamchiya
Mr S V Mutambanengwe
Mr M Adam

Secretariat

Mr J M Willson

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will be to maintain the cease-fire, for which they will be equally responsible to the Governor. Arrangements will be made to see that the Patriotic Front forces who may be assembled in Rhodesia during the cease-fire are properly housed and fed.

To meet some of the concerns expressed by the Front Line Presidents and the Patriotic Front, the British Government is taking steps to set up a monitoring force, with the participation of certain other Commonwealth governments, to monitor the cease-fire. With the agreement of the parties and of the contributing countries, this could play a stabilising role in resolving military questions which could arise after elections and before independence.

Britain recognises that the resettlement of refugees will be a major pre-occupation of the first government of Zimbabwe. A start must be made on the return of refugees as soon as Rhodesia returns to legality. The British Government is ready to do everything possible to help in this matter, in conjunction with host governments, the international organisations and other governments which are prepared to offer aid for this purpose.

The Governor will be prepared to meet any political leader should matters arise which cannot be resolved by their respective advisers.

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The session began at 16.35.

THE CHAIRMAN commenced by delivering a statement, subsequently circulated as Conference Paper CC(79)52. He proposed that discussion should commence on conditions for elections. MR NKOMO made the point that his delegation needed this paper so that further follow-up comments could be made; there needed to be discussion in depth.

THE CHAIRMAN accepted that follow-up comments could be made. He hoped however that Mr Nkomo's and Mr Mugabe's delegation would be satisfied once they had seen his statement in print. He thought there was a large measure of agreement on conditions for elections and suggested that the Conference pass on to more detailed points, where again he hoped they would find a large measure of agreement.

Referring to Conference Paper CC(79)45, he asked whether paragraph 1 was acceptable. He assumed it was uncontroversial. MR MUGABE said that the summary of the 19th Plenary Session (CC(79)44) had wrongly stated that his delegation had accepted paragraph 1 of Conference Paper CC(79)45. This was certainly not true in the manner stated. His delegation wanted a more comprehensive view of elections; the nature of the administration during elections was fundamental. His delegation had in mind the entirety of the conditions leading to elections. That should have been well reflected in the summary of the proceedings. In response to a query from the CHAIRMAN, MR MUGABE confirmed that he did not argue against the essence

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of the statement that the administration of the elections would be scrupulously fair and impartial as between all the political parties - but rather against the extent of the administration.

The CHAIRMAN then read through the other conditions set out in paragraph 1 of the paper and asked whether they were acceptable. DR MUNDAWARARA confirmed that they were. MR MUGABE agreed that the principles were acceptable; they were concerned however about their application. In what context would they apply? What law was envisaged when the phrase "within the law" was used? THE CHAIRMAN replied that activities would have to be conducted peacefully under the electoral process, and not by violence. He acknowledged that the other delegations had different views. His delegation were seeking areas of agreement, however, and he assumed that all agreed with the first paragraph of the paper.

MR NKOMO again requested clarification of the meaning of the Chairman's approach. What was his object in asking whether delegations accepted these points? These were principles they all had. These objectives were normal. He was concerned about the context in which they would apply. The British proposals said for example that the Governor would use certain forces - the police and army - and in reading this one had to take into account the context of the forces present at the time.

THE CHAIRMAN said that it could be taken that there was

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no problem as regards the principles of the paragraph. MR SILUNDIKA said that one question in the paragraph had not been answered. The paper said that conditions "should include the following". Could he take it that the paragraph remained incomplete and that other freedoms would be spelt out? The CHAIRMAN replied that they had not intended the paragraph to be necessarily all-inclusive. He thought that these principles were those necessary for free and fair elections.

MR ZVOBGO said that, so far as principles were concerned, they would no doubt agree but so far as the phrase "within the law" went, that was a different matter. He presumed the British delegation were referring to Rhodesian law; if so, his delegation would have invited attention to provisions of the Law and Order Maintenance Act which made many freedoms impossible, eg those of speech and assembly. What law were the British delegation referring to? The CHAIRMAN replied that when the Governor assumed authority the British Government would ensure that there was adequate legal authority for the conduct of elections.

MR MUGABE commented that his delegation had presented a document on free and fair elections; they stood by what it contained. MR NKOMO reiterated that he still could not see the object of the present exercise. THE CHAIRMAN said that he thought it necessary to agree on a framework of principles. He wondered whether the point about which law was envisaged worried the delegation of Mr Nkomo and Mr Mugabe. He read out a formulation, namely "the Law and /Order

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Order Maintenance Act gives wide discretion to the authorities. Agreement to these propositions will ensure that the Governor will use that discretion in accordance with these principles". He again wondered if the principles contained in paragraph 1 of the paper were acceptable. MR NKOMO asked if the Chairman doubted that his delegation did. MR LUCE then said that earlier in the Conference a discussion had taken place on the principles within paragraph 1. Mr Mugabe and Mr Nkomo's delegation had said that they were concerned about discussing the conditions in more detail. It did help if common ground was reached on principles; it was understood however that all participants had different ideas on interpretation. He recalled that, in response to the request of Mr Mugabe and Mr Nkomo's delegation, outline proposals on conditions for elections had been put forward and that subsequently there had been a series of queries and responses. It did seem a good basis to agree on principles before proceeding to conditions, recognising at the same time that difficulties and varying opinions remained. That was the background against which the present discussion should be seen.

MR MUGABE explained that his delegation wished to guard against the danger of agreeing to principles if that was subsequently interpreted as accepting conditions which went with the principles. His delegation did not accept those conditions. The principles were stipulated as much in his delegation's paper as in that of the British delegation.

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It served no purpose to ask if his delegation accepted the principles as stated by the British delegation.

The CHAIRMAN then moved on to paragraph 3: the question of the release of detainees. He asked if Dr Mundawarara's delegation saw any difficulty over this proposal.

DR MUNDAWARARA said that there were very few detainees held by his Government, and these were mostly people who did not want to be released. He understood that in this context the Chairman referred to all detainees from Zimbabwe Rhodesia who were held arbitrarily and on political grounds, even those held outside the country.

THE CHAIRMAN then asked if Mr Mugabe or Mr Nkomo saw any difficulty about the release of detainees. MR MUGABE said that they did not have any detainees and that the question was irrelevant. MR RENWICK said that the British Government had had requests from a number of people to attend the Conference who claimed to be under detention in Maputo and suggested he provide Mr Mugabe with the names. MR MUGABE said that the British had not approached his delegation about this, though they had done so about some British citizens in the past. THE CHAIRMAN then asked whether it was generally agreed that detainees should be released. MR MUGABE said that he wished to refer to his people who were in detention and restriction camps and protected villages, inside the country. Why were the British interested in those outside the country before dealing with those in detention

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in Zimbabwe? MR RENWICK said that the British were interested in the release of all detainees. THE CHAIRMAN said that he had asked for agreement on this point and he had first asked Dr Mundawarara who gave his answer. He had then asked Mr Mugabe and Mr Nkomo. All were now agreed on the release of detainees.

MR MUZENDA said that the Chairman should obtain from Dr Mundawarara a list of all those who had been convicted by courts for political reasons. DR MUNDAWARARA said that the purpose of the present exercise was to determine whether or not detainees would be released, regardless of their classification. This question should also be settled for those from Zimbabwe Rhodesia who had been detained elsewhere. THE CHAIRMAN said that he assumed both sides were agreed that the detainees should be released. MR MUZENDA asked if the Conference agreed with the Patriotic Front's statement in the document outlining the requirements for elections (CC(79)40). This concerned the return of refugees, the release of political prisoners, detainees and restrictees and the abolition of protected villages.

THE CHAIRMAN then referred to paragraphs 3 and 4 of the British paper (CC(79)45) which said that resettlement would be a priority task for the elected government in the interim period and those outside the country should be allowed to return to vote. DR MUNDAWARARA said that there were no people being detained arbitrarily in Rhodesia and there were
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no restrictees.

MR BARON said that he wished to ask whether "arbitrarily and on political grounds" meant otherwise than through a court conviction. If "arbitrarily" excluded conviction in court then a very large category of people would be excluded under the British definition, and these were those the Patriotic Front were seeking to have included in the definition of political prisoners. They included those who were convicted in court on political grounds. The British definition excluded these by the use of the word "arbitrarily".

THE CHAIRMAN said that if people were convicted on exclusively political grounds they would be included in that sentence of the British proposals. If they had been convicted of violence then they would not be. MR ANDERSEN said that there was no-one convicted in Zimbabwe Rhodesia on exclusively political grounds, though there were a number of people convicted of security offences such as recruiting for illegal organisations. The review of those in prison was continuing and those persons were being released when they no longer constituted a threat to the security of the state. MR MUSURURWA said that some people had been arrested and convicted for making subversive statements and for the organisation of illegal meetings; he wanted to know the position of those people. Were they not political prisoners? MR MUGABE said that under the Unlawful Organisations Act people had been arrested for furthering the objectives of banned organisations. He wished to know whether they would be considered as criminals.

/MR BARON

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MR BARON asked whether he could take it that "arbitrarily and on political grounds" included those people who had been convicted in court on purely political grounds as distinct from an offence involving violence or similar elements. THE CHAIRMAN said that the British would look to both sides to release political prisoners.

He then suggested that this part of the discussion should be adjourned; that, in due course, Dr Mundawarara should perhaps provide more detail of the reviews of cases he had mentioned; and that Mr Renwick should produce the lists of people to whom he had referred earlier on. Perhaps the lawyers on all sides could have a few words. The question of the resettlement of refugees was a matter of concern for all sides, and paragraph 4 of the British paper stated that those resident outside the country should be allowed to return to vote. MR MUGABE asked that sufficient time be allowed for this and THE CHAIRMAN said that arrangements for bringing this about should start as soon as possible. MR NKOMO asked whether the Governor would be able to pay the costs of repatriation. THE CHAIRMAN said that the British would certainly try to help, and this was something which could be discussed in greater detail later on.

THE CHAIRMAN then suggested that discussion move to paragraph 5 of the paper, which he thought had already been dealt with in questions and answers over previous days.

MR BARON reverted to the last sentence of paragraph 3 and asked for an explanation of the expression "the protection /of

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of villages". MR NKOMO explained that his delegation had spoken in their paper (CC(79)40) of "protected villages" rather than "the protection of villages"; such villages should be dismantled - they were concentration camps. THE CHAIRMAN commented that the two phrases seemed similar. DR MUNDAWARARA said that he and his delegation had visited protected villages all over the country during their amnesty campaign and had asked their inhabitants if they wanted the villages to be dismantled. All had said that they would not wish to leave yet, as they felt safer within the protected villages. He was not there to defend them but they existed through necessity and had been accepted by the people. MR LUCE commented that if an effective cease-fire agreement was achieved, it would seem sensible to move towards normality as rapidly as possible. This was not able to be achieved overnight, but a process was needed which would lead to the elimination of the protected villages in the course of a return to normality. MR NKOMO said that personal security was needed for the conduct of elections; people should feel free to move about as they wished. That was why his delegation had emphasised the importance of the effectiveness of a cease-fire. Citizens should feel secure. MR LUCE added that everyone wanted a political agreement and a cease-fire, whereby in the course of holding free and fair elections everyone would feel safe. The existence of protected villages needed to be taken into account however; the length of time needed to eliminate them could perhaps be discussed during discussions on a cease-fire. /THE

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THE CHAIRMAN then said that paragraphs 5 to 10 of the paper had been dealt with in the series of questions and answers; delegations were at liberty to return to them the following day - although he hoped that Mr Nkomo and Mr Mugabe's delegation would decide that they did not have to.

He then turned to paragraph 11 of the paper and said that he assumed that the first two sentences raised no difficulty. He read the third sentence, and commented that this was something in which the Election Commissioner, under the Governor, would have to take a hand. These conditions were normal as regards radio and TV, but more unusual as far as the press was concerned. DR MUNDAWARARA said that, so far as the radio and TV were concerned, it was the practice that each registered party in a general election was given certain time on radio and TV - but that nothing could be done as regards the national press. THE CHAIRMAN commented that so far as the press were concerned there would have to be freedom to advertise and to publish.

MR NKOMO agreed that the first sentence of paragraph 11 was acceptable. It had to be remembered however that a law existed which restricted the organisation of meetings without permission from the police, and that there could be much delay before obtaining such permission. In the short period for elections that kind of restriction could frustrate the free campaigning of parties throughout the country. THE CHAIRMAN commented that such a circumstance would certainly frustrate the principles the Conference had agreed to at the beginning of the paper, and would have to be considered and acted upon

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CC(79)73
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by
the Chairman during the Thirty-Second
Plenary Session, is circulated to
delegates at his request

Lancaster House
14 November 1979

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by the Election Commissioner, under the Governor, so that freedom of assembly was maintained.

MR SILUNDIKA proposed that the Conference should agree that lawyers on each side be given the opportunity to examine such Rhodesian laws as were likely to affect freedom of action during elections. It would be too great a task for the Governor alone; nor would it be clear otherwise which laws were being taken into account. All laws affecting security and order should be considered: some direction was needed on which laws and sections of laws could be abused and which could not. THE CHAIRMAN said that the Governor would have a great deal of advice and he did not therefore think there would be difficulty. It was open to Mr Silundika, however, to present, as speedily as possible, a paper stating which laws he thought should be examined. He said it would be open to any party on the Election Council to raise such points and secure a decision.

MR NKOMO reminded the Conference that the structure during the interim period had not yet been agreed. The question of the Governor and his staff had not been agreed. He wished to avoid any statement to the effect that each delegation in its own way had accepted the British proposals. MR MUZENDA commented that he was beginning to doubt whether the British Government understood the situation in his country. He asked whether the police might not continue to operate according to the law which had been in force in recent years, despite new arrangements for the interim.

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Given his proposed staff, he wondered whether the Governor would be able to do anything effective. He asked, for example, how long the Governor would take to redress complaints - many arrests might be made in a short period.

THE CHAIRMAN commented that sometimes the delegation of Mr Mugabe and Mr Nkomo seemed to fear that the Governor would do too much, sometimes too little. He agreed that there might still remain the difficulty that the policeman on the spot might not understand the new legal situation. It would be up to the Governor to see that the law was observed and properly known. He was prepared to consider a paper if Mr Silundika produced it expeditiously. MR BARON said that such a paper would in fact waste time, because his delegation did not have appropriate facilities for examining the laws of Southern Rhodesia. Submitting a paper would merely result in a variation on bilaterals. He would prefer trilaterals between experts from each delegation to consider what laws would be fair. Such a process could be done quickly and satisfactorily for all parties concerned. THE CHAIRMAN said he would consider that suggestion.

The Chairman suggested that consideration of paragraph 12, the question of the time period, should be deferred, as it was a major matter.

He then turned to paragraph 13 of the paper and asked for an explanation of the Patriotic Front's objection to mobile polling stations. MR BARON explained that they would lead
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to all manner of abuse and fraud, when taken in conjunction with the non-registration of voters; the position would be different if there was a proper registration of voters. In the latter case, the major objections to such stations would disappear. MR MUZENDA added, quoting examples, that mobile polling stations might lead to people voting more than once. DR MUNDAWARARA said that Mr Muzenda could not be talking about the recent elections in his country. Observers had travelled with mobile stations and had not made adverse reports. Such stations had been useful as they had reached places where it had not been possible to erect stations. THE CHAIRMAN commented that each party had the right to have observers at polling stations: this would apply also to mobile stations. MR SILUNDIKA made the point that there would be no way of checking whether voters had voted elsewhere. MR CRONJE asked what specific frauds and irregularities were being referred to; his delegation had not come across any. There was no possibility of voters voting more than once. THE CHAIRMAN commented that some of the points raised seemed to relate to the conduct of elections in general, rather than specifically to mobile stations. MR ZVOBGO made the point that mobile stations presented considerable inconvenience to the voters in rural areas, who might have to wait many hours. Such people had other duties and might miss the stations from force of circumstance.

THE CHAIRMAN understood that mobile polling stations would

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be used only in remote areas; people might have to walk a long way to a static polling station. He stressed that the precautions which would be taken at mobile polling stations would be the same as those in force at fixed ones. MR NKOMO asked why polling booths could not be set up near schools and clinics. DR MUNDAWARARA said that his government had found mobile polling booths indispensable and he could not see any problem.

THE CHAIRMAN then asked why the Patriotic Front wished to have polling on one day only instead of 2 or three days. MR SILUNDIKA said that his delegation wished to reduce the possibility of corruption in the circumstances under which the election would be carried out.

THE CHAIRMAN asked why the opportunities for corruption were considered to be greater if polling were spread over 2 or 3 days rather than on one day. MR NKOMO said that, if polling took place over a number of days, the possibilities of bussing people from one area to another were greater, as they could move overnight. THE CHAIRMAN said that it was possible to use indelible marks to prevent people from voting more than once.

MR CRONJE asked whether such matters of detail need be discussed, as an Election Council was to be set up. THE CHAIRMAN said that this matter was of some importance. On a practical point, he understood it was possible to have an indelible mark which would last longer than the period of polling. MR NYANDORO said that, in the Rhodesian elections

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held earlier that year, a number of people had tried to vote twice and had been caught. The problem of the voting period was irrelevant; fraud could happen in one day as easily as over several, but machinery to prevent fraud would be in existence. MR CRONJE said that he understood the difficulty referred to in the context of the earlier election, as the mark used on a voter was invisible. It was necessary for this to be so because of the difficult security situation at that time. There were indelible dyes, however, which were visible to the naked eye and which would last several days. THE CHAIRMAN said that the object of the British proposals was to enable as many people as possible to vote and that if voting took place on one day only many people might be disenfranchised. In India for example voting would take place over several days. The Conference was not discussing two points of principle but two entirely practical matters. Turning to paragraph 14, he thought all present agreed that it was unobjectionable.

MR BARON said that the paragraph dealing with the registration of voters (paragraph 9) had been passed over. He considered that the possibility of fraud could arise from non-registration and understood that the Conference would be returning to that point the following day. He did not wish it to be thought that this point had gone by default. THE CHAIRMAN said that he had left this out because it was a difficult problem; he was sure that it would be raised again.

He asked whether all present agreed to paragraph 14. MR SILUNDIKA thought that there would be a difficulty where a

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change over of the party representative at a polling booth took place if only one representative was allowed. He wondered how the change over could be managed, particularly at a mobile polling station. THE CHAIRMAN said that this did not seem to be a great problem, and in any case the representatives did not have to change.

He continued that paragraph 15 was a difficult matter to deal with and was a question of detail for the Election Commissioner. He felt that all those present would be able to subscribe to its sentiments.

MR MUGABE asked what was meant by "normal regulations", for disclosure of election expenses and corrupt and illegal practices.

MR FIFOOT said that the election law would provide for the prohibition and punishment of corrupt and illegal practices and for election petitions. The Governor could adapt any existing provision in the law to deal with those matters. The definition of what was normal for electoral expenses obviously depended on the country concerned; what would be normal in Britain would not be normal in Southern Rhodesia. The level of expenses would be something on which the parties and the Election Commissioner would be able to strike a norm.

MR ZVOBGO said that there was a related matter to election expenses on which Mr Mugabe and Mr Nkomo had tried to get an answer that morning; this concerned the status of the present Ministers in Salisbury after the Governor arrived.

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The Chairman had said that Bishop Muzorewa and his Ministers had agreed not to exercise their powers. Would they resign and would they continue receiving their government salaries? If they continued to receive their salaries the state would be subsidising their campaigns. THE CHAIRMAN reiterated that the executive powers for day-to-day administration would be handed over to the Governor. His delegation was concerned with the question of powers and functions, and it had been agreed that these would be handed over. DR MUNDAWARARA pointed out that in a party list system the party rather than individuals paid election expenses. MR MUGABE commented that the idea of a list system had not yet been accepted; the discussion concerned elections in general. MR LUCE commented that in Britain's election system the government previously elected remained in being until polling day; his view was that Ministers did not have an inbuilt advantage during the election campaign simply by virtue of being a Minister. There was a further difference in that Bishop Muzorewa and delegation had made a special gesture in agreeing that the Governor should be in control of day to day affairs. MR MUGABE emphasised that the Conference were talking about a return to legality - when the Government was illegal and so called Ministers were not Ministers in the proper sense. The comparison with British Ministers was not apt. THE CHAIRMAN commented that all were against corruption and illegal practices and that this was a matter for the Election Commissioner. /THE CHAIRMAN

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THE CHAIRMAN said that paragraph 16 of the paper was being dealt with by questions and answers.

He asked whether paragraph 17 was agreeable to delegations.

MR SILUNDIKA said that it would be acceptable if it read "election commissioners and their staff ...". MR BARON commented that paragraph 17 would only be acceptable if it were not construed to exclude the role of Commonwealth observers in this regard; THE CHAIRMAN confirmed that it did not. MR BARON said that if spot checks would be additional to the functions of the observers, the paragraph was acceptable. THE CHAIRMAN confirmed that this was the case.

MR NYANDORO asked whether the insistence of the delegation of Mr Mugabe and Mr Nkomo on the Commonwealth aspect had something behind it? MR SILUNDIKA replied that the question of Commonwealth observers could not be objected to - the Conference derived from a Commonwealth agreement.

THE CHAIRMAN concluded the session by commenting that some progress had been made. He proposed that the Conference adjourned until 11.30 the following day.

The session adjourned at 19.46.

CC(79)50
CONFERENCE PAPER

COPY NO 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by
Dr Mundawarara during the Twenty-First
Plenary Session, is circulated to
delegates at his request

Lancaster House
31 October 1979

Mr. CHAIRMAN,

YOU HAVE ASKED FOR A RESPONSE TO THE SUGGESTION THAT, PRIOR TO THE ELECTION, A FULL REGISTRATION OF VOTERS SHOULD BE CARRIED OUT AND, THEREAFTER, CONSTITUENCIES SHOULD BE DELIMITED. IN REPLY I WOULD SAY THAT WE BELIEVE THAT IN ORDINARY CIRCUMSTANCES, THE CONSTITUENCY SYSTEM IS THE BEST BASIS FOR CARRYING OUT AN ELECTION BUT, IN PRESENT CIRCUMSTANCES, WE ARE ENTIRELY SATISFIED THAT IS IS TOTALLY IMPRACTICAL

THE PROBLEMS ASSOCIATED WITH CONSTITUENCY ELECTIONS HAVE BEEN FULLY EXAMINED BY OUR EXPERTS WHO WENT INTO THIS MATTER IN GREAT DETAIL BEFORE OUR LAST ELECTION. IT IS A COMPLEX PROCEDURE INVOLVING MANY CONSECUTIVE STEPS EACH, IN TURN, CONSUMING TIME TO IMPLEMENT. FOR INSTANCE, A FULL REGISTRATION OF VOTERS WOULD HAVE TO BE UNDERTAKEN

AND ONLY ...

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AND ONLY WHEN COMPLETED COULD A DELIMINATION OF CONSTITUENCIES BE CARRIED OUT. SUCH AN EXTENSIVE, TIME-CONSUMING AND COSTLY EXERCISE IS NOT DESIRABLE NOR FEASIBLE IN OUR PRESENT SITUATION.

APPROXIMATELY 2.8 MILLION PEOPLE WOULD HAVE TO BE REGISTERED FOR THE FIRST TIME. THIS, IN ITSELF, AS SIMILAR EXERCISES ELSEWHERE HAVE PROVEN, WOULD TAKE MANY MORE MONTHS THAN MOST PEOPLE APPEAR TO BELIEVE. IN OUR COUNTRY, WE HAVE THE ADDED COMPLICATION THAT, DUE TO THE WAR, THERE HAS BEEN CONSIDERABLE MOVEMENT OF PEOPLE FROM THEIR HOME AREAS TO THE URBAN AREAS. IN ORDER TO OBTAIN A TRUE PICTURE, THOSE PERSONS WOULD HAVE TO RETURN TO THEIR AREAS OF ORIGIN TO BE REGISTERED, OTHERWISE A COMPLETELY FALSE DISTRIBUTION OF VOTERS WOULD BE PORTRAYED. THIS WOULD INVOLVE AN ENORMOUS MOVEMENT OF POPULATION FROM THEIR TEMPORARY ABODES, WHICH WOULD

PROLONG

LORD CARRINGTON:

If I may answer Mr Mugabe; as he pointed out, the document which he has now circulated to the Conference makes proposals for the pre-independence period. This was put to the British Government on Saturday 10 November, when President Kaunda presented it to us. Before I state the British Government's position, which I intend to do shortly, I should like to comment briefly on the Patriotic Front's document because we have discussed the contents amongst ourselves and they are known to all of us.

In the first place, I note that the Patriotic Front now accept that the general administration of the country during the interim should be in the hands of a Governor with supporting staff from Britain and that he should assume direct control over the administration. This is a step forward which I welcome. Similarly, I note that they accept the concept of an Election Council and of a British Election Commissioner. The paper also accepts in principle that the elections should be conducted on the basis of a party list system.

But, as we have already pointed out on a number of occasions, there are a number of important respects in which the paper does not bring us to the point of agreement. We have already made it clear that we do not believe that a full registration of voters, which would take many months, will be practicable for the independence elections, though there must be adequate safeguards against electoral malpractices and fraudulent voting.

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PROLONG THE EXERCISE EVEN MORE. SUBSEQUENT MOVEMENTS OF POPULATION TAKING PLACE SIMULTANEOUSLY WITH THE REGISTRATION EXERCISE WOULD MAKE THE DELIMITATION COMMISSION'S TASK IMPOSSIBLE.

A DELIMITATION OF CONSTITUENCIES COULD ONLY BE CARRIED OUT ONCE THE REGISTRATION EXERCISE WAS COMPLETE AND IT IS A VALID POINT TO MAKE THAT THIS DELIMITATION WOULD BE A PIONEERING EFFORT. THE COMMISSION, AFTER UNDERTAKING ITS OWN ENQUIRY, MUST PUBLISH ^TIS PROVISIONAL FINDINGS AND CALL FOR COMMENTS FROM THE PUBLIC BEFORE ISSUING ITS FINAL REPORT - ANOTHER TIME-CONSUMING EXERCISE.

THE PARTY LIST SYSTEM CARRIED OUT ON A REGIONAL BASIS IS, WITHOUT DOUBT, THE BEST COMPROMISE WHICH CAN BE DEvised IN OUR PRESENT SITUATION BECAUSE IT POSSESSES MANY OF THE ADVANTAGES OF A
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CONSTITUENCY ELECTION ON THE ONE HAND, AND THE BENEFITS OF PROPORTIONAL REPRESENTATION INHERENT IN THE PARTY LIST SYSTEM ON THE OTHER. OUR EXPERIENCE IN OUR RECENT ELECTION IS THAT IT IS THE MOST PRACTICAL AND IDEAL METHOD TO ARRANGE AN ELECTION AS SOON AS POSSIBLE. MAY I REMIND THE CONFERENCE THAT THE INTERNATIONAL OBSERVERS CONFIRMED THAT OUR ELECTION WAS COMPLETELY DEMOCRATIC, FREE AND FAIR. AND, MR. CHAIRMAN, AS YOU HAVE POINTED OUT - THERE ARE A NUMBER OF COUNTRIES WHICH CARRIED OUT ELECTIONS WITH THE PARTY LIST SYSTEM.

IT IS ESSENTIAL THAT THE ARRANGEMENTS FOR THE ELECTION BE COMPLETED WITH THE GREATEST SPEED. I NEED ONLY REFER TO THREE REASONS WHY THIS SPEED IS VITAL. FIRSTLY, THE UNCERTAINTY OF THE FUTURE ~~WITH~~ WHICH OUR PEOPLE HAVE BEEN LIVING WITH FOR SO LONG MUST BE REMOVED

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AS A MATTER OF URGENCY. SECONDLY, TO IMPROVE THE LOT OF OUR
PEOPLE IT IS IMPERATIVE THAT WE RETURN TO NORMALITY AND GAIN
INTERNATIONAL RECOGNITION, HAVING ALREADY ACHIEVED THE LIFTING OF
SANCTIONS WITHOUT ANY UNNECESSARY DELAY AND, THIRDLY,
THE PRE-INDEPENDENCE PERIOD WITH THE BRITISH PRESENCE BE KEPT AS
SHORT AS POSSIBLE.

THANK YOU, MR. CHAIRMAN.

CC(79)49

CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by the Lord Privy Seal during the Twenty First Plenary Session of the Conference, is circulated to delegates at his request.

Lancaster House
31 October 1979

LORD PRIVY SEAL:

1. At yesterday's session a number of important issues were raised by the Patriotic Front, which the British delegation undertook to consider and comment upon further.
2. Before taking up the detailed points, it might be helpful if I were to explain rather more fully the thinking behind the proposals which the British Government have tabled for the interim period.
3. The purpose of the proposals which we tabled on 22 October was to create the conditions in Rhodesia in which free and fair elections can be held. Before drafting our proposals we considered the position adopted by the Salisbury delegation that they had been elected to govern Rhodesia. Furthermore most of their members had nothing to do with the illegal declaration of independence. They argued that they had a strong impressive mandate to govern Rhodesia and that they should do so during the interim period. Elections could be supervised by the British Government, but they would continue to administer the country.
4. We also considered the Patriotic Front's position as set out in the paper on Transitional Arrangements which they circulated early in the course of this Conference. Their proposals called for complex power-sharing arrangements in the interim and a start on the restructuring of the police and security forces.
5. We had to take into account, too, the need for an effective cease-fire to end the war and to create the conditions
/for

for fair elections in which all the parties could participate, as well as the importance of assuring both the parties themselves and international opinion that all those taking part in the elections would do so on an equal footing.

6. With these considerations in mind, we reached certain conclusions. First, the purpose of the interim period was to allow the parties to put their case to the people under fair conditions. The pre-independence period should not be concerned with the transfer of power or the remodelling of the institutions of Government. These were questions for the people of Rhodesia to decide at the elections. The essential requirement was that all parties should be free to state their views and commit themselves to abide by the people's choice. The purpose of the interim period should be peaceful competition for power.

7. Secondly we reached the conclusion that rather than leave the government in the hands of just one side - as the Salisbury delegation felt we should - or both sides - as the Patriotic Front argued - we should in effect leave it to neither side. Instead power would be vested for a short period in a Governor appointed by the British Government, who could ensure impartial administration, while the leaders of all the parties explained their case to the people.

8. Thirdly we concluded that, against the background of a war and the certain difficulties of a cease-fire, an interim period must not be excessively protracted but it must allow all the political parties adequate time to put their case to the people of Rhodesia. The longer the interim period lasted

/before

before the people of Rhodesia were given the chance to decide their political future for themselves, the greater the risk of a break-down of the cease-fire.

9. There is no practical alternative to working through existing institutions so far as the day-to-day administration and the police, acting under our supervision, are concerned. If there is a cease-fire - and this is the assumption on which we proceed - then the essential task of the military forces of both sides will be to maintain that cease-fire.

10. Lastly, it was clear to us that the arrangements we proposed would be effective only if there was a genuine commitment by both sides to make them work. It is in the interests of all the parties to this Conference that there should be an end to the fighting and free and fair elections. We, the British Government, are prepared to ensure the conditions under which those objectives can be achieved. But we can do so only if both sides accept our authority and our determination to ensure the impartiality of the election process.

11. Let us now consider the point which we have reached. The British Government has said that it is willing to accept the very considerable responsibilities which these proposals entail. It has not been an easy decision to involve ourselves directly in a difficult and dangerous situation, in which the risks are obvious. But we believe that it is only through a direct British involvement that conditions for elections, acceptable to both sides, can be created. Our decision to appoint a Governor has wide international support, including that of
/many

many Commonwealth African Heads of Government.

12. Bishop Muzorewa's delegation have accepted the proposal for a British Governor. They are being asked to entrust their ministerial powers in the period before the elections are held to a British Governor. They have taken a difficult decision in the interests of achieving a settlement which will win international acceptance.

13. We have frequently heard the complaint from the Patriotic Front that there is not enough negotiation in this Conference. There was negotiation and compromise on the Constitution. There has now been compromise, on the part of the Salisbury delegation, on the interim arrangements. If I may anticipate a point which I expect Mr Nkomo or Mr Mugabe to make, the British Government's position is rather different. Our proposals are already a compromise.

14. It is against the background of these general points that I should like to deal with some of the questions raised yesterday.

15. One point discussed was the rôle of the present security forces. If the Governor is to assume authority for the government of Rhodesia, then he must assume authority in relation to the Defence Forces and their commanders will report to him. This is what our proposals provide. We are talking about a situation in which there will be a cease-fire. In such a situation the main task of the military forces of both sides will be to maintain that cease-fire. The military commanders of the Patriotic Front will also be answerable to the Governor for ensuring that their forces observe the cease-fire.

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16. Questions have also been raised about the police. The rôle of the police force in the interim period, in the conditions of a cease-fire, will be that of a police force in any country, that is the maintenance of law and order. The police will act under the supervision of the Governor, assisted by British police advisers. If there are allegations of improper activities on any side by the police in relation to the elections, then it will be open to any of the parties to bring these allegations to the attention of the Election Commissioner or the Governor who would cause them to be investigated.

17. Concern was also expressed about the security of the leaders of the Patriotic Front during the election campaign. It will be the Governor's responsibility, on the basis of the advice which he receives from his Advisers, to make the arrangements to ensure the security of all those taking part in the campaign. The Governor will be ready to discuss these matters with the parties concerned and will pay particular attention to the need for personal protection of all political leaders. This is a very important aspect of the fairness of the election and will be given due weight.

18. A number of questions were put about the powers of the Governor. There was uncertainty about the constitution under which he would govern. In effect the constitution for the interim period will be Order in Council appointing the Governor, and giving him full executive and legislative powers. We have no intention of seeking to create an entire body of laws for the government of Rhodesia for a period of

/two

two months. In practice the great majority of existing laws will be continued. It will be for the elected Parliament to decide which to keep and which to change. But the Governor's presence and the powers which the Order in Council will give him will ensure that powers which are carried forward into the interim period are not abused in a way which would interfere with the conduct of free and fair elections.

19. Some comment was made on the proposal that the Governor would be responsible for the administration of the country on a caretaker basis. As I have already emphasised, we do not believe that the interim period should be used to pre-judge the decisions of the electors. It will not be the Governor's task to introduce new policies.

20. Questions were also asked about the Governor's staff. Lord Carrington's remarks on 29 October, the text of which has been circulated, gave details of his main Advisers. I think that it must be for us to decide the precise numbers of staff which he will need to carry out his responsibilities effectively. In some respects it may be possible to assess his full needs only after he has arrived in Rhodesia.

21. There was discussion of the rôle of Commonwealth observers. Their rôle is set out in the Lusaka Communiqué. It will be to observe that the elections are genuinely free and fair and that the British Government is carrying out its responsibility to supervise them in an even-handed manner. It was made clear in the Lusaka Communiqué that responsibility for the supervision of elections rests with the British Government.

22. I would make one final comment. Bishop Muzorewa and his colleagues have agreed to entrust their powers to a British
/Governor

Governor, to rely on him to administer the country and not to misuse the powers which he will have, and to organise elections on a basis that will be fair to them and to others. We believe that there is a better chance that both sides will trust us than that they will trust each other, and that it is in the interests of both sides to commit themselves to accept and maintain a cease-fire, respect the Governor's authority and abide by the results of free and fair elections. There is no doubt that in this interim period Rhodesia will be under close observation from the Commonwealth and the world at large. It will be for the British Government to justify the confidence we are asking both sides to put in our determination to create the conditions for the people to make their choice.

23. I hope that I have answered most of the points raised yesterday, and I would ask both sides to reflect carefully on what I have said.

It is also essential that there is no over-lapping or confusion between the roles which the Election Council, the Election Commissioner and the Commonwealth observers will play in relation to the election. The supervision of the election - which in our conception will be an entirely self-contained process - will be the task of the Election Commissioner. The Election Council will be an advisory and consultative body. The Commonwealth observers will be given every facility to observe the elections and the election campaign and to satisfy themselves that they are being fairly conducted.

I have already said on many occasions that I do not believe that it is practical or realistic to think in terms of a mixed police force in Rhodesia in this period. The police will carry out their functions under the supervision of the Governor.

On the status of the political leaders, Bishop Muzorewa and his colleagues have agreed not to exercise their ministerial powers during the interim. The political leaders taking part in the elections will have a free and equal chance to put their case to the people.

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CC(79)48
TWENTY-FIRST PLENARY SESSION

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Twenty-First Plenary Session of the
Conference, Wednesday 31 October, 1979

Lancaster House
31 October 1979

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PRESENT:

UK Delegation

Sir I Gilmour Bt (in the Chair)

Mr R Luce

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr C D Powell

Mr A M Layden

Mrs A J Phillips

Mr S J Gomersall

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Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr E L Bulle
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Rev N Sithole
Mr L Nyemba
Mr Z M Bafanah
Mr I D Smith
Mr D C Smith
Mr R Cronje
Mr C Andersen
Dr J Kamusikiri
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr D Zamchiya
Mr G Mutambanengwe

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Mr Mugabe, Mr Nkomo and Delegation

Mr J M Nkomo	Mr R G Mugabe
Mr J W Msika	Mr S V Muzenda
Mr T G Silundika	Mr J M Tongogara
Mr A M Chambati	Mr H Ushewokunze
Mr L Baron	Mr J Tungamirai
Mr S K Sibanda	Mr E Zvobgo
Mr W Musururwa	Mr S Mubako
Mr C G Msipa	Mr W Kamba
Miss E T Siziba	

Secretariat

Mr J M Willson

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The session began at 1139.

THE CHAIRMAN read a statement which was subsequently circulated as Conference Paper CC(79)49. He then asked Mr Mugabe and Mr Nkomo whether they would like to make any comment on what he had said.

MR MUGABE said that there were still a number of matters which were not entirely clear. First there was the question of the role of security forces on both sides and the British statement that their role would be confined to observance of a ceasefire. He referred to the British paper of 29 October (CC(79)46) where it was stated in paragraph 6 that "the Governor would have authority over the existing Defence Forces and Police. Their commanders would report to him and exercise their responsibilities under his supervision." This part of the document had been discussed the previous day and he had understood from the Chairman that the intention here was that the Rhodesian Defence and Police Forces would come under the control of the Governor immediately for the normal purposes for which these forces were used and that, only in respect of the ceasefire would the Patriotic Front forces also be involved. Was this the case?

THE CHAIRMAN pointed out that an answer on this point had been given by Lord Carrington the previous day that there was no alternative during the interim period to using the existing forces. If Mr Mugabe would prefer a more detailed answer he would be happy to provide it in writing. MR MUGABE said that Lord Carrington had not answered his question fully, and wondered if it had been reconsidered. THE CHAIRMAN confirmed that law and order would be a responsibility for the

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police force under the Governor and his British Police Advisers. MR MUGABE said that there was an alternative; the Patriotic Front were training their own police.

MR NKOMO said that there were two questions; one concerned the military forces and the other the police forces. Would they be taken over by the Governor and recognised as the legal forces during this period? THE CHAIRMAN said that he had already dealt with this question in paragraph 9 of his statement (CC(79)49), and that the emphasis would be on the police rather than on the military. MR NKOMO asked about the position of the army and the air force and THE CHAIRMAN said that, as had been made clear the previous day, these would come under the Governor. MR NKOMO then asked for clarification of whether these forces would be the legal forces during this period, and went on to ask about the position of the Patriotic Front forces during this time. THE CHAIRMAN said that the latter would be responsible for observing the ceasefire but it would be the responsibility of the police to maintain law and order.

MR MUGABE said that the British appeared to be giving two functions to the Rhodesian forces, the normal security function and the function of observing the ceasefire. He asked what the Patriotic Front forces would be doing, and whether they would be on an equal footing. THE CHAIRMAN said that, when the ceasefire came about, the military forces would be in the background but they would come under the Governor, who would not take over until a ceasefire had been agreed.

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MR NKOMO said that the Patriotic Front forces would be without status, whereas the Rhodesian forces would be part of the government structure. The British appeared to be thinking of a ceasefire enforced by the Rhodesian forces but under which the Patriotic Front forces would merely be observers.

THE CHAIRMAN replied that perhaps Mr Nkomo was thinking of two separate periods; in fact the interim period and the period of the ceasefire were the same. MR NKOMO suggested that the Conference talk about the period in which the Governor would assume control of the existing forces, not about the ceasefire. He requested a statement about the position of the Patriotic Front forces during this period. Could it be said, for example, that the Governor would take control of the existing forces and the Patriotic Front forces?

MR LUCE said that he would try to respond clearly. It was essential to reiterate that they were talking against the background of a political agreement, together with a will to fulfil such an agreement; under that situation a British Governor would have full political authority over all the forces in Rhodesia. Ceasefire arrangements had yet to be discussed. The British Government envisaged that once ceasefire arrangements had been agreed the Patriotic Front forces, as part of the agreement, would be answerable to the Governor to ensure that the ceasefire was observed. It was also essential, as the Chairman had made clear that morning, that a situation was
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envisaged whereby the police would be under the authority of the Governor, with British advisers, and would have responsibility for maintaining law and order. Anyone infringing or abusing that agreement would surely be held responsible for a situation where the whole agreement might break down. It was hard to believe that anyone would wish to be responsible for that.

MR NKOMO again asked for an equivalent statement to that regarding the Governor's control of existing forces: would the position of the Patriotic Front be the same? MR LUCE replied that the position of the security forces had been set out clearly that day and in previous statements. THE CHAIRMAN suggested that a further response on this point might be provided by the British delegation that evening. MR MUGABE explained his delegation's thinking. The British Government had chosen to assume control of the Rhodesian forces to the exclusion of his delegation's forces; the normal security functions of the forces would be performed by the Rhodesian forces under the Governor. If, for example, an enemy attacked the country during the interim period, which forces would be resorted to?

THE CHAIRMAN said that he would respond to that point that afternoon. He suggested that Mr Mugabe, Mr Nkomo and delegation put forward all the questions that they had; some might be answered immediately, and the remainder later that day.

MR MUGABE then continued to put forward questions on various points. His first question related to the police force.

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His delegation had raised objection the previous day to the assumption of their control by the Governor. In fact the police force were not operationally distinguishable from the army, and were part of Rhodesia's combined operations force. The British delegation had argued the day before that the police superintended law and order and did not involve themselves in aggression. That was not true; they were part of the enemy forces just as much as the infantry and air force. The British Government's choice of the Rhodesian forces prejudiced his delegation's position: why had the British Government opted for that force to the exclusion of his delegation's own force? THE CHAIRMAN replied that he doubted that anything could be added to what had been said the previous day or to his comments that morning, but a further answer would be provided that evening. MR NKOMO made the point that the British delegation wanted to use the existing forces to the exclusion of the Patriotic Front forces in the interim administration, although they had not said so in plain language. His delegation had put forward two proposals, either for both forces to be used together, or, if the British had to be fair to each side, there had to be an independent force.

MR SILUNDIKA said that Point 6 of Paper CC(79)46 spoke of existing defence forces. He asked whether the British delegation included the Patriotic Front forces in this definition. He also asked whether the British delegation expected the

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Rhodesian forces to be used during the interim period. If so, what functions would they perform? Point 6 of the paper referred to the "exercise of their responsibilities under his supervision": he asked for a precise definition of all their responsibilities during the interim period.

MR MUGABE then detailed points which his delegation wished to raise regarding Papers CC(79)45 and 46.

- (a) He asked firstly about the possibility of a new electoral law. The UK delegation had said that the present law was adequate. Why was a new law not feasible? Did it not occur to the British Government that the existing law was that of an illegal regime, and itself illegal? Could not the Conference agree on definite aspects of a new law? Was it impossible to pass a new electoral law deriving from the wishes of the Conference?
- (b) His delegation had proposed an Electoral Commission. The British delegation had said that this would be a parallel body. His delegation had proposed this, however, under the administration which would be headed by a Governing Council (as proposed in Documents CC(79)16 and 40). Such a body would not perform functions parallel to those of the Electoral Commissioner. The latter would be part and parcel of the administrative body.

/ (c)

CC(79)72
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached paper, tabled by Mr Mugabe,
Mr Nkomo and Delegation during the Thirty Second
Plenary Session of the Conference, is circulated
to delegates at their request.

Lancaster House
14 November 1979

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- (c) His delegation questioned the rationality of the British delegation's argument in calling for a Governor. Why was it not feasible to create governing machinery headed by a Governor but including both their side and that across the table? The Chairman had just said that Bishop Muzorewa's delegation would have preferred to remain in control during the interim period. Why did the Chairman not approve of his delegation's compromise that would enable both sides to be present under the Governor in the interim? The British had first appeared to propose that all should relinquish power, and then had come back with proposals to include the Rhodesian regime's institutions, to the exclusion of the Patriotic Front. His delegation's proposals were the fairest as they involved parity of the forces involved. Why were the proposals not feasible?
- (d) He then turned to the registration of voters. The British, quoting the Botswana example, said that this would take too long. It need not, however, as shown by the examples of other countries, where the period concerned had been much shorter, for example, Zambia and Kenya. The former in the early 1960s had registered 700 people a day in every constituency: could that example not be the Conference's model?

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- (e) The British proposals talked of one representative of the contesting parties being present at polling stations. His delegation wished to understand why there should not be more than one.
- (f) He then asked about the British delegation's interpretation of "observers". In the context of international observers, the word had a wider meaning in most cases than that used by the British delegation. His delegation wished to know if the function of the team of observers would be merely to look, and then register the results of their observation at the conclusion of the exercise, or whether it would also be to supervise to some extent the entire process leading to free and fair elections. THE CHAIRMAN remarked at this point that the role of observers would be to observe the whole electoral process. MR MUGABE then commented that Lord Carrington had the previous day talked of limits to the numbers of observers, giving rise to the impression that he would like the numbers to be as low as possible. Why should there be limitations? His delegation would like clarification.
- (g) The British proposals in paragraph 2 of CC(79)46 stated that the Governor would have the authority

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to ensure that powers which were carried forward would not be abused. How would this be done? He asked for information as to what powers the Governor would have. Were they not entitled to know this before the Order in Council was made? There should be no resort to colonialism during the interim period. Britain should assume its responsibility alongside the other parties; there should be a partnership. Britain had shirked its responsibility in the past and had made it necessary for his delegation to intervene on its behalf to decolonise the country. Britain therefore could not now exclude those forces which had undertaken the decolonisation process on Britain's behalf over the previous 14 or 15 years.

- (h) He asked about the position of the present Government. Would they resign or merely cease to perform their functions but remain ministers while continuing to receive salaries?
- (i) He asked also what was intended as regards Parliament. Would it remain?

MR SILUNKIDA said that he had asked how the British reconciled the position of a force which had a dual role - the maintenance of security and the observance of a ceasefire.

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In the British paper on elections (CC(79)45) there were 14 references to security which showed that the British also were conscious of the need to establish security in the interim period. The British spoke of the Governor assuming control of the police and defence forces to prevent breaches of the law in relation to elections but there were existing laws in that country which could be used as a pretext for arrest. He wanted to know how abuses of this nature could be prevented. He asked also how the British proposed to prevent fraud, cheating, double voting and bussing people from region to region. Mr Silundika asked whether the list in paragraph 1 of the paper was complete; he also referred to the statement that "elections would be conducted under the existing electoral law" and asked whether this meant the law enacted by the present Rhodesian regime. Under this law, for example, anyone who had been in detention for more than 6 months could not vote in an election. He also wanted to know the position of the auxiliaries in Rhodesia and whether these would be considered as part of the defence forces. MR NKOMO asked whether the present Conference proceedings were to be considered merely as a question and answer exercise, or whether they were part of a negotiating process.

THE CHAIRMAN said that where new points were raised this furthered the process of discussion and negotiations. He then asked that any further questions should be submitted in writing

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immediately, so that they could be answered that afternoon. He asked whether Dr Mundawarara or his delegation had any comments. DR MUNDAWARARA delivered a statement which was subsequently circulated as Conference Paper CC(79)50.

THE CHAIRMAN then proposed an adjournment until 16.30 that day.

The session ended at 1247.

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CC(79)47

TWENTIETH PLENARY SESSION

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Twentieth Plenary Session of the
Conference, Tuesday 30 October, 1979

Lancaster House
30 October 1979

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PRESENT:

UK Delegation

Lord Carrington (in the Chair)

Mr R Luce

Sir J Graham

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr A M Layden

Mr R M J Lyne

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

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Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe	Mr J M Nkomo
Mr S V Muzenda	Mr J W Msika
Mr J M Tongogara	Mr T G Silundika
Dr H Ushewokunze	Mr A M Chambati
Mr J Tungamirai	Mr L Baron
Mr E Zvobgo	Mr S K Sibanda
Mr S Mubako	Mr W Musururwa
Mr W Kamba	Mr D N Madzimbamuto
	Miss E T Siziba

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Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr E L Bulle
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Mr L Nyemba
Chief K Ndiweni
Mr Z M Bafanah
Mr I D Smith
Mr D C Smith
Mr R Cronje
Mr C Andersen
Dr J Kamusikiri
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr D Zamchiya
Mr S V Mutambanengwe

Secretariat

Mr J M Willson

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The session commenced at 10.35.

THE CHAIRMAN recalled that, after the Plenary Session the previous day, two notes on the basis of which he had spoken had been circulated, the first relating to conditions and preparations for elections and the second to the administration during the interim period. (Conference Papers CC(79)45 and 46).

Mr Mugabe and Mr Nkomo had asked for the notes to be circulated. He now invited comments.

MR MUGABE said that his delegation had not been able to conclude their analysis of the documents as they had not been received until after 5 pm the previous day. They did however want elaboration of a few points. He wished first to revert to the question of the comprehensive character of the transitional period. His delegation wanted a comprehensive picture in one document: the Chairman's piecemeal approach gave them difficulty. The Chairman had admitted the previous day that one aspect remained to be discussed, the ceasefire. Could an overall picture not be provided? Were the British Government thinking of a transitional constitution? THE CHAIRMAN replied that the Governor would in effect be the transitional constitution: his authority would be legalised by an Order in Council in the British Parliament.

MR MUGABE confirmed, in response to a question from the Chairman, that his delegation had some questions on the administration in the interim period. MR NKOMO said that it remained very difficult to appreciate the British Government's proposals unless more information were provided. The British
/paper

THE ZIMBABWE CONSTITUTIONAL CONFERENCE.

PROPOSALS BY PRESIDENT KAUNDA.

1. TIME SCALE.

There should be an interim period long enough to allow the cease-fire to take effect, and thereafter

(a) for refugees etc. to return to their homes and the registration of voters to be completed;

(b) for the election campaign.

Four months after the cease-fire is effective is the minimum.

2. ADMINISTRATION IN THE INTERIM PERIOD.

During the interim the general administration of the country would be by a Governor and supporting staff from Britain, with the existing administrative machinery.

3. ELECTIONS.

(1) There would be an Election Council, which would be composed of the Governor as Chairman, the Election Commissioner as Vice-Chairman, and equal numbers of representatives of the Patriotic Front and the Salisbury Regime. The Council would advise the Governor on all matters connected with the preparations for and conduct of the elections, would supervise the entire electoral process, and would deal with complaints.

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paper CC(79)46 showed what forces the Governor would be supposed to use, namely the present forces and police. This did not mean much however in the context of the existing forces in Zimbabwe. He asked what was meant by these forces and what relationship there was between the details in the UK proposals and the ceasefire. THE CHAIRMAN replied that if there was agreement at the Conference, discussion of the ceasefire would be the last agreed item on the agenda. His delegation would expect the Patriotic Front forces to be answerable to the British Governor for their part in maintaining the ceasefire.

In answer to a question from MR NKOMO concerning the meaning of the phrase "existing forces and police", the Chairman replied that this meant the existing Rhodesian police and army. MR NKOMO asked whether the Chairman recognised these forces. MR RENWICK said that everyone recognized that there was a war which represented the most serious feature of the situation. The British proposals envisaged the police acting under the supervision of the Governor and his advisers. The Rhodesian security forces would be responsible to the Governor. The Patriotic Front forces would play an important role in relation to the ceasefire and its maintenance.

In response to a question from Mr Nkomo as to whether he recognized that there was a war, THE CHAIRMAN said that that was why they would be trying to negotiate a ceasefire. The two forces with whom they would be trying to do so were the forces engaged in the war. He then reiterated paragraph 11 of

/CC(79)32

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CC(79)32, adding that the civil police would be acting under the Governor's supervision exercised through the police adviser and his assistants. In response to further queries from MR NKOMO, the CHAIRMAN reiterated that the police would be under the control of the Governor, and that Commonwealth observers would be present during elections. The police kept order and, under the control of the Governor, would maintain order during the interim period. A police force was necessary for the maintenance of order and the only one available was the Rhodesian police force. Because it was the force available and had a knowledge of the country, it would be used by the Governor to maintain order.

MR NKOMO wished to make sure that the Chairman realised that combined operations in Rhodesia involved the army, air force and police. He reminded the Chairman that in the Patriotic Front's documents (CC(79)16 and 40) they proposed a combined police force consisting of the existing force and the Patriotic Front's police force. The Chairman had not asked what the Patriotic Front meant by that proposal. The CHAIRMAN replied that his delegation had concluded early on - and he thought that he had made this clear in discussion - that they did not believe that it was possible to integrate the various police and armed forces until after elections. The British Governor, his staff and the British Government would be responsible for ensuring that conditions were fair. The British view was that this could only be achieved through the existing police force.

/MR NKOMO

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MR NKOMO recalled that the Chairman had said that the people of Rhodesia should not be prejudiced before elections by institutions that might cause them doubt as regards security. Did the Chairman believe that the Patriotic Front forces would bring about such a prejudice? The CHAIRMAN said that, in a ceasefire, it was the responsibility of both sides to maintain it. The British Governor would maintain law and order through the existing police force. In addition there would be an Election Council, on which all parties would be represented; there would also be Commonwealth observers. In this way a free and fair election could be ensured.

MR NKOMO said that the British proposals envisaged only one section of the army, which would seem to him likely to give rise to prejudice. When considering a legally acceptable army, neither side should be in an advantageous position. The people would know that there were two forces involved; would not the appearance of only one as a legal army be prejudicial?

THE CHAIRMAN said that the British proposals related to the practical problem of keeping law and order. He believed that it was not possible to create a new police force in the short interim period proposed. The Governor would therefore have to use the existing police force; a British Police Adviser and an Election Council were also envisaged. The armies would disengage and this question had yet to be dealt with. This would be in the context of a ceasefire when politicians would be campaigning, including the Patriotic Front.

/MR MUGABE

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MR MUGABE reminded the Chairman that the latter had at the start emphasised the need for elections to be scrupulously fair. The Chairman was talking of existing forces in what the Chairman admitted was an illegal context in a situation where Britain had no forces. The forces were those of the Rhodesian regime and the Patriotic Front. An objective and impartial observer would say that there were two forces, those of Rhodesia and the Patriotic Front. There were therefore two ways of bringing about free and fair conditions; either both forces should cease to operate in the interim period or, as suggested by his delegation, a force could be made up from both sides and would provide for impartiality. The British delegation were choosing forces from the side which had rejected British control; did the Chairman believe that the result would be impartial and objective? The CHAIRMAN said they were talking of a situation in which a ceasefire - which would be the final issue to be negotiated - existed; in which both sides were responsible for its maintenance; in which the British Governor would use the police force to keep law and order; and in which armed forces would not be fighting.

MR NKOMO reiterated that the British proposals did not mention the Patriotic Front forces. He again asked whether this was a condition which would lead to free and fair elections, and again requested a comprehensive picture. The CHAIRMAN reiterated that the ceasefire remained to be negotiated; that, once there was a ceasefire, the fighting would stop and

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electioneering would commence. Bishop Muzorewa and delegation had accepted elections held under British authority. He now asked whether Mr Mugabe and Mr Nkomo and delegation had decided whether they were prepared to support elections under British authority.

MR NKOMO said that his delegation wanted to accept or reject something they could understand, and he wished to know what "British Government authority" really meant. THE CHAIRMAN asked Mr Luce to respond. MR LUCE said that the first objective of the British Government was to achieve a political agreement which would lead to arrangements being discussed for a ceasefire. There had to be, firstly, a political agreement, secondly a ceasefire, and thirdly a political will to see an agreement through. Therefore any party which sought to infringe this agreement would be the cause of a breakdown. Against this background it would be a British Governor and British advisers who would assume the authority to ensure that the conditions for the elections were free and fair. He would use the existing police as a basis to ensure that law and order were maintained. Commonwealth observers would also be present; they would have to satisfy themselves that the elections were held under free and fair conditions. It would then be for the new government elected by the people of the country to determine the eventual position of the security forces.

MR ZVOBGO said he would like to try to make those present understand that, when the British talked of a ceasefire, his delegation understood that this meant that people had to stop shooting. There was no such body as the civil police in Rhodesia; the police were a military organisation in the

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same way as the other forces, and they took part in combined operations alongside the army and the air force. The British were saying that the Patriotic Front should accept their proposals, and go to Salisbury, where they would be under the protection of the existing police force, those very police against whom the Patriotic Front had been fighting. It was unreasonable to assume that a non political police force existed in Southern Rhodesia; they were the sworn enemies of the Patriotic Front. Bishop Muzorewa's delegation would not feel safe if they were guarded only by Patriotic Front police. If there were some truly neutral police force, the British might have a case, but their present proposals were based on false assumptions.

THE CHAIRMAN said that the Governor had to have the means of preserving law and order, and he had to use the existing police force to do this; there was no other force available. Mr Mugabe and Mr Nkomo's delegation had to accept that the British Governor and British administration would see that law and order was maintained. He accepted that there was doubt in the minds of some of those present about their personal security, and the British would take special account of these fears. Such matters (eg the provision of bodyguards) would be the responsibility of the Governor and his Police Adviser.

MR NYANDORO appealed for respect for others on the part of each delegation. To refer to each other in derogatory terms was not helpful. THE CHAIRMAN agreed. MR NKOMO said /that

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that he had not intended to abuse anyone, and if he was thought to have done so, he apologized.

MR SILUNDIKA said that his delegation made a distinction between a ceasefire and the security of both the state and the people during the elections. He believed that the British had taken up an inflexible position on this crucial point. He appealed to the British not to do so and to be prepared to negotiate, as this was vital to the survival of the Conference. In the British paper CC(79)46 they said in paragraph 2 that the Governor would have authority to ensure that powers which were carried forward under the existing laws were not abused. This implied that the British were aware of the notorious laws that existed in that country, and that there was the possibility of abuse. In paragraph 3 of the paper it was said that the Governor would continue existing members of the public service in their posts, making them responsible to him. In paragraph 5 the paper spoke of the Governor being responsible on a caretaker basis for the day to day administration of the country. Under paragraph 6 the Governor was to have authority over the existing Defence Forces and Police. He would not necessarily have continuous command and control. Their commanders would report to the Governor and exercise their responsibilities under his supervision. His delegation were concerned to know what those responsibilities were. The Governor would be appointed by the British Government, but it would not be possible for him to know exactly what was going on in all parts of the country. The Governor would have only

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Military and Police Advisers, who would not control the conduct of operations. He felt that the British delegation should be prepared to reconsider the position. Mr Mugabe and Mr Nkomo could not consider themselves safe if they moved around the country with the existing police force in control.

THE CHAIRMAN said that if the Governor's authority was not respected, he did not believe it would be possible to obtain a settlement. It was vital that all those who took part in the election should accept the authority of the Governor, otherwise the whole system would break down. He had no doubt that if all present wished for a genuine settlement and for a free and fair election, and if they were prepared to trust the British who had had great experience in decolonising and in the organisation of free and fair elections, none of the fears expressed by Mr Mugabe and Mr Nkomo's delegation would materialise. It would be up to the Governor to see that the existing laws in the country were not abused; if they were he would be able to take advice from those concerned. The Governor would continue to use the existing civil servants; the ordinary administration of government had to continue. The Governor would act on a caretaker basis, and the every-day affairs of government had to be kept going; but no new policies would be introduced. After the election he would hand over to the new Government. The reference to the Governor's authority over the Defence Forces and the Police meant that he would be their Commander-in-Chief.

MR MUGABE said that the British were asking his delegation to trust the British Government. Mr Harold Wilson had asked
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them to trust him in October 1965. UDI had come about and the British Government had done next to nothing. Even the sanctions which were imposed through the United Nations had not been complied with by British multinational companies. Was that a basis on which he could trust the British Government now? The Rhodesian forces operating in the country were enemies of the Patriotic Front, but the British Government said that, because there would be a British Governor, they should be able to trust him and ignore the forces behind him. What was there to prevent another UDI? There had to be a system of checks and balances under which the Patriotic Front forces were present, with their own administrative machinery. No other basis was possible.

THE CHAIRMAN said that over the years there had been strong criticism in Africa of the British Government because they had not been prepared to take the responsibility for seeking a settlement in Rhodesia and to return the country to legality on the basis of a British presence there. This time the British Government were prepared to do this - no light undertaking after all these years. Nor was it an easy matter for Bishop Muzorewa's delegation to accept the British Government's decision. No doubt Britain would be much criticised whatever happened. However the British were prepared to accept the responsibility. But no British Governor could succeed without the support of both parties. If either party wished, they could wreck the agreement - either Mr Mugabe and Mr Nkomo or the Bishop. Therefore there had to be a considerable element of

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trust by all parties concerned. The Governor would work in the context of a ceasefire which would succeed if all delegations wanted it to.

MR SILUNDIKA said that the questions raised by his delegation were not being fully answered. The question of the Governor should not be confused with the instruments which prejudiced his impartiality - that is the present security forces in the country. It was impossible to expect his delegation to agree that the Governor could be impartial if he used one side to the exclusion of the other. His delegation had not been present when the agreement had been negotiated with Bishop Muzorewa's delegation. The British delegation constantly defended that delegation's acceptance. His own delegation's proposals would benefit all. He concluded by saying that Bishop Muzorewa and delegation should argue for themselves, without support from the Chair.

THE CHAIRMAN said that Bishop Muzorewa and delegation had asked for a bilateral meeting in order to ask questions on the basis of Conference Paper CC(79)32, which all delegations had received. The UK delegation had answered the questions. After consideration, Bishop Muzorewa's delegation had decided to accept in principle the British proposals. Nothing had transpired of which the other delegation were not aware. On the second question he reiterated that in the British Government's judgment, and having regard to British Government responsibility and the dangers to the British Government of what they would be doing, the only way to proceed in the short

(2) The Election Commissioner would be responsible for the administration and conduct of the elections, from the commencement of registration to the completion of counting and the announcement of the result. Provided there is a registration of voters, the party list system would be acceptable.

(3) The Election Commissioner's staff should be British officials augmented by local recruits. The number of Commonwealth observers should be sufficient to participate fully in the entire process and in particular to supervise the printing of ballot papers, to monitor the polling at every polling station, to ensure the security of ballot boxes and to observe the counting.

(4) There will be Commonwealth observers who would:-

(a) be independent of the British Government;

(b) be organised and co-ordinated by the Commonwealth Secretariat on a basis of an observer team from a minimum of ten Commonwealth countries with supporting staff of not less than three hundred;

(c) have their own Chairman and Secretary and report to Commonwealth Heads of Government.

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time proposed was for the Governor to use the existing apparatus. A successful outcome could only be achieved by a short interim period. The British Government therefore thought that their proposals were right; with goodwill the Governor could bring about free and fair elections; there would be Observers present to see that this was the case.

MR MUZENDA asked how large the Governor's staff would be. He also asked for an explanation of the involvement of Commonwealth Observers. THE CHAIRMAN replied that the Governor's staff would be a matter for decision by the British Government. The role of the Observers would be to observe the fairness of the election - to see what was happening.

MR NKOMO emphasised that very serious issues had been put to the UK delegation. He asked for them to be considered seriously. His delegation wanted peace. MR MUGABE added that the Chairman could now see why his delegation had had reservations on the areas of power, such as the armed forces, the police force, the public service and the judiciary. They had now found that the Chairman intended to preserve them as they had existed throughout the period of illegal independence and to impose them on a new government intact. His delegation regarded this attempt to adopt existing institutions as very serious and prejudicial to themselves.

THE CHAIRMAN said that he realized that everyone had reservations. Bishop Muzorewa and delegation had reservations about what they had accepted. He understood them. He understood

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the reservations of Mr Mugabe and Mr Nkomo and delegation. He himself had reservations. His role as peacemaker was not easy. He would reflect on all that had been said. He would be less than honest however if he did not make clear that what Mr Mugabe and Mr Nkomo and delegation had said had already been discussed within his government and delegation for a long time. His delegation understood the problems faced by the other delegations and had sought to devise a scheme which, though difficult for both, was fair to both. He would give his delegation's considered view the following morning on what Mr Mugabe and Mr Nkomo's delegation had said.

MR I D SMITH intervened to say that his country's police force had an international reputation for being a highly trained and disciplined force. As the war had progressed, as attacks had concentrated on civilian targets, and as captured documents had pointed to attacks on urban areas, the police had been dragged into the war arena. They wished to leave it and return to their normal police work; this would happen once there was a ceasefire. Force of circumstance had led to police being put into this situation. Members of both visiting delegations would agree from experience that the police provided protection and represented a highly disciplined force; when former enemies had returned to the country they had received first-class protection. If the new system was accepted, the police would take orders from the British Governor. He himself was not happy but if he had to accept the British proposals he was /satisfied

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satisfied that the police would not be found wanting in maintaining law and order. It was wrong to blame the police for the present situation or to question their integrity. MR MUGABE commented that this only underlined the point that the present police force was part of the combined operations force, a force which would support the Rhodesian side. As to what the police force would become, this could be solved together; there could be integration of forces, perhaps under proper command. At present they were part of the enemy side and could not be trusted.

It was agreed that the Conference would adjourn until the following day.

The session ended at 11.50.

CC(79)46
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The Chairman has asked that the attached notes on the administration of the country during the interim period, on the basis of which he spoke in the Nineteenth Plenary Session, should be circulated to delegates.

Lancaster House
29 October 1979

THE ADMINISTRATION IN THE INTERIM PERIOD

1. The basis of our proposals is that the British Government is prepared to assume responsibility for ensuring the conditions for free and fair elections. This is a heavy responsibility, which we take very seriously.

2. The first step towards the assumption of this responsibility would be for the British Government to appoint a Governor.

We should do this by an Order in Council, which would confer on him full executive and legislative powers for the short period involved. The Order in Council would in effect become the Constitution of the country during the interim period. The Governor would be able to make laws by Ordinance. We do not envisage that the power would be extensively used (though it may be needed in certain cases eg to do with the elections). The Governor would have the authority to ensure that powers which are carried forward under existing laws are not abused.

3. The Governor would publish an Ordinance on his arrival describing how his powers would be exercised. He would continue existing members of the public service in their posts, making them responsible to him.

4. The Governor's basic task would be to assume responsibility for everything to do with the elections and provide impartial administration of the country during the elections. His administration would be on a caretaker basis. It would be for the future elected government to decide on any changes. The Patriotic Front have complained that the Governor would have unlimited powers. If we are to guarantee fair conditions for

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the elections then he must have all the powers necessary to ensure them.

5. We envisage that the Governor would arrive in the country as soon as possible after the end of the Conference. He would assume formal responsibility for the Government of Rhodesia from the moment of his arrival. There would be a hand-over period while he assumed responsibility for the administration. Thereafter, Bishop Muzorewa and his Ministers would commit themselves to the election campaign. They would undertake not to exercise ministerial functions during the election campaign, so that they could devote themselves fully to the task of explaining the constitution to the people and fighting the elections. The Governor would be responsible on a caretaker basis for the day to day administration of the country.

6. The Governor would have authority over the existing Defence Forces and Police. Their Commanders would report to him and exercise their responsibilities under his supervision.

7. The Governor would be assisted by the requisite staff. There would be a Deputy Governor, Military and Police Advisers, and an Election Commissioner with supporting staff.

CC(79) 45
CONFERENCE PAPER

COPY NO 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The Chairman has asked that the attached notes on Elections, on the basis of which he spoke in the Nineteenth Plenary Session, should be circulated to delegates

Lancaster House
29 October 1979

ELECTIONS

Conditions for Elections

1. The first point is the conditions under which elections should be held. They should include the following:

- the administration of the elections will be scrupulously fair and impartial as between all the political parties;
- peaceful political activity will be freely conducted by all the parties to the election;
- there will be full freedom of movement, assembly and expression during the election campaign;
- all parties will conduct their political activities within the law;
- all the parties will have free and uncensored access to all the public media to put their case to the people of Rhodesia;
- appropriate measures will be taken to ensure the security of the party representatives taking part in the election campaign.

As I said in my reply to Bishop Muzorewa's questions on 25 October, we look to all parties to conduct their activities within the law and not to abuse the campaign, e.g. by practising intimidation or inciting people to violence. The Governor will have appropriate powers to deal with such activity.

2. It would be for the Governor to ensure that these conditions are fulfilled. He would have the necessary authority in relation to the security forces and the police. An effective cease-fire is a vital element in fair elections. If there is a cease-fire there should be no need for martial law.

/Preparations

Preparations for Elections

3. The question has been raised of the release of detainees. We should look to both sides to release anyone detained arbitrarily and on political grounds. The re-settlement of refugees must be a priority task for the elected government, and work on it should start in the interim period. The need for security measures such as the protection of villages would depend on whether there is a fully effective cease-fire.
4. Those resident outside the country should be allowed to return to vote.
5. Electoral law. The British Government would take the legislative action necessary to bring into force those parts of the Independence Constitution required for elections to be held and for Parliament to be constituted in the terms of the Independence Constitution. A new Electoral Law would not be feasible. The law currently in force is in many respects common form and the relevant provisions could apply. There may need to be legislation to deal with particular problems or fill gaps. This would be done by Governor's Ordinance.
6. The Patriotic Front's proposals envisage an Electoral Commission. If we are to exercise our responsibility to supervise the elections there cannot be a parallel body claiming to do the same thing.
7. We propose to carry out our supervision through an Election Commissioner appointed by the British Government, with appropriate staff, who would be responsible for supervising the elections. He would be kept fully informed of all matters relating to the elections, and he and his assistants would have the right to enquire into any aspects of the conduct of the

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elections and see that complaints are properly investigated.

8. To enable the parties to satisfy themselves that the elections will be conducted fairly, there would be an Election Council, chaired by the Election Commissioner. Each party taking part in the elections would be entitled to have a representative on it. The Council would have a general consultative function as well as handling representations from the parties on the conduct of the campaign and the poll.

9. Sir I Gilmour has already given our views on registration of voters. The evidence available to us is that this would simply take too long (one year in Botswana). It would be of interest to hear the Salisbury delegation's comments. But of course there will have to be proper measures to prevent fraudulent or multiple voting.

10. The same applies to the delimitation of constituencies. But the party list system is fair (indeed many would argue that it is fairer than the first-past-the-post system). We suggest that it might operate on a regional system. Seats would be allocated between regions or districts on the basis of population figures.

The Campaign

11. Provided that there is a cease-fire, there should be freedom for each party to campaign throughout the country. It would be essential that no party practice intimidation of voters. Radio/TV time and space in the national press ought to be offered to parties on an equal basis.

12. The Patriotic Front's paper suggests that one month is sufficient for the election campaign itself, though they allow 3 months for the return of refugees, registration of voters and

4. SECURITY AND CEASE-FIRE.

(1) There should be a Cease-fire Commission, composed of a British chairman (who should be a military expert) responsible to the Governor, and representatives of the commands of a Commonwealth Peace-keeping force, the Patriotic Front forces and the Rhodesian forces.

(2) The functions of the Cease-fire Commission would be:-

(a) to supervise the monitoring and enforcement of the cease-fire;

(b) to commence the building of the new Zimbabwe Defence Force.

(3) The opposing armies should both be frozen, and accorded equal status. To this end, the liberation army of the Patriotic Front should be accorded the same treatment as that enjoyed by the Rhodesian Forces. The cease-fire would be monitored and enforced by a Commonwealth Peace-keeping force drawn from countries acceptable to all parties.

(4) Law and order would be maintained by a police force composed of elements of the Rhodesian and Patriotic Front police forces, and a Commonwealth civilian police unit, operating under the authority of the Governor.

delimitation of constituencies.) We have explained the reasons why we do not think these are feasible even in a much longer interim period. If we can agree that these first elections will have to proceed without registration, we hope that we can agree on a two-month interim period, covering preparations for the election and the campaign itself.

Voting

13. We are all agreed that there must be freedom for the voter to cast his vote for the party of his choice. There must also be adequate security at polling stations. The Patriotic Front may wish to explain their objection to mobile polling stations. We doubt that it will be possible to conduct polling on one day, particularly if it is in the rainy season. Two or three days would seem right.

14. We see no objection to each party presenting candidates in a particular district being allowed to have one representative at each polling station in the district concerned, to observe the polling. Candidates could be present for the count.

15. Normal regulations should apply on disclosure of election expenses, corrupt and illegal practices and election petitions.

Observers

16. We agree that representatives from Commonwealth countries should be present to observe the elections and our supervision of them. There are bound to be practical limits on numbers. Observers should have freedom to move round the country.

17. The Election Commissioner and his staff would make spot checks on polling stations throughout the country, and supervise the counting of votes.

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COPY NO 89

CC(79)44

NINETEENTH PLENARY SESSION

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Nineteenth Plenary Session of the
Conference, Monday 29 October 1979.

Lancaster House
29 October 1979

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PRESENT:

UK Delegation:

Lord Carrington (in the Chair)

Mr R Luce

Sir J Graham

Mr D M Day

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr P J Barlow

Mr A M Layden

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

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Bishop Muzorewa and Delegation

Bishop A T Muzorewa

Mr E L Bulle

Mr F Zindoga

Mr D C Mukome

Mr G B Nyandoro

Rev N Sithole

Mr L Nyemba

Chief K Ndiweni

Mr Z M Bafanah

Mr I D Smith

Mr R Cronje

Mr C Andersen

Dr J Kamusikiri

Mr G Pincus

Mr L G Smith

Air Vice Marshal H Hawkins

Mr D Zamchiya

Mr G Mutambanengwe

Mr Mugabe, Mr Nkomo and Delegation

Mr J M Nkomo

Mr R G Mugabe

Mr J W Msika

Mr S V Muzenda

Mr T G Silundika

Mr J M Tongogara

Mr A M Chambati

Dr H Ushewokunze

Mr L Baron

Mr J Tungamirai

Mr S K Sibanda

Mr E Zvobgo

Mr W Musarurwa

Mr S Mubako

Mr D N Madzimbabuto

Mr W Kamba

Miss E T Siziba

Secretariat

Mr J M Willson

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The session started at 10.36.

THE CHAIRMAN said that he had discussed with Sir Ian Gilmour the meeting held on Saturday morning (27 October), and would like to welcome the acceptance of the broad principles of the British proposals by Bishop Muzorewa and his delegation; this had been a difficult decision. He understood that Mr Mugabe and Mr Nkomo's delegation had asked for time to consider Sir Ian Gilmour's statement and the meeting on Saturday had been adjourned on that basis. He asked whether Mr Mugabe or Mr Nkomo wished to make a statement.

MR NKOMO said that they had not yet prepared their statement, but that they had said to Sir Ian that they felt that general discussions should go ahead on the basis of the papers already tabled. The Conference should examine both sides' proposals to try to identify the differences of view. Their considered reply to Sir Ian Gilmour's statement would be handed over to the Conference in the next day or two.

THE CHAIRMAN said that the conditions under which an election would be held were relevant and he proposed that the Conference should discuss the proposals stage by stage, starting with the organisation of the elections. This could cover points in the papers submitted by both the Patriotic Front and the British delegations.

The Chairman then spoke on the basis of paragraphs 1 and 2 of the notes subsequently circulated as Conference Paper CC(79)45. He asked whether delegations had any comments.

/MR MUGABE

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MR MUGABE said that all present were agreed on the principle of free and fair elections; what concerned his delegation was the administrative structure which would be responsible for maintaining security.

THE CHAIRMAN said that he accepted that Mr Mugabe and Mr Nkomo's delegation had to be satisfied on conditions for free and fair elections. He sought to take those conditions in an order, and suggested that the Conference should first look at electoral considerations, and clear out of the way items which were common ground.

After some discussion, Mr Mugabe's and Mr Nkomo's delegation accepted the principles set out in paragraph 1 of Conference Paper CC(79)45.

The Chairman reiterated that he wanted at this stage to clear out of the way those items on which he felt there could be general agreement, for example the resettlement of detainees and refugees. He then went on to speak on the basis of paragraphs 3 to 8 of CC(79)45.

The Chairman asked if there were any comments at that stage. MR NKOMO said that he had no comments; they wished to hear all that the Chairman had to say.

THE CHAIRMAN continued on the basis of paragraphs 9 to 17 of CC(79)45.

MR MUGABE commented that the Chairman had provided the Conference with more detail, partly by way of extracts from his original statement. He suggested that the Chairman's comments

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be circulated. His delegation wanted the entire situation to be discussed logically. The Chairman had selected the election process itself and had left out the conditions leading to that process. THE CHAIRMAN said that his proposals would be circulated if Mr Mugabe wished. He was disappointed, however, that Mr Mugabe's delegation were not ready to comment.

BISHOP MUZOREWA said that he also would like the statement to be circulated. He wondered whether, as most of the discussion seemed to be between the UK delegation and that of Mr Mugabe and Mr Nkomo, his own delegation might be excused and the other two delegations might have a bilateral meeting. The CHAIRMAN said that he would like Bishop Muzorewa and delegation to hear his next comments, which would deal with the administration in the interim period.

The Chairman then spoke on the basis of notes which were subsequently circulated as Conference Paper CC(79)46. After concluding, he asked whether Mr Nkomo and Mr Mugabe would like to comment.

MR NKOMO asked whether these represented proposals. THE CHAIRMAN replied that they represented proposals for discussion which had been accepted in outline by Bishop Muzorewa and delegation, although they had not yet accepted the details. MR NKOMO then asked for the Chairman's remarks to be circulated so that they could be studied carefully and a clear reply made. He asked that the British Government study his delegation's

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document and reply fully; thereafter negotiation could take place. THE CHAIRMAN said that Sir Ian Gilmour had already replied to the Patriotic Front's documents; it had been made clear that certain points within them were unacceptable to the British Government. His comments that morning represented British proposals, and would be circulated: he asked that other delegations should study them, and then discuss them constructively and in good faith.

MR NKOMO again emphasized the need for discussion. THE CHAIRMAN replied that there had already been a good deal of discussion, represented for example by the British Government's proposals (CC(79)32), the Patriotic Front's two papers (CC(79)39 & 40) and the Lord Privy Seal's response (CC(79)42). He was prepared to discuss anything. It was, however, the British Government's responsibility to supervise and conduct elections and it was ultimately their duty to decide what could be done. The British Government were seeking agreement with the delegation of Mr Mugabe and Mr Nkomo, and with that of Bishop Muzorewa on questions of detail, as to what could be done and what the British Government would be prepared to accept. It would be wrong however if he led the delegation of Mr Mugabe and Mr Nkomo to believe that the document they had put forward would be acceptable to the British Government: this was not the case, and ultimately the conduct of elections and the process of decolonisation remained the British Government's responsibility. He suggested that the notes on which his

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remarks had been based be circulated and that the Conference reconvene the following morning. He commented that much of what he had said filled out in detail what was already fairly clear.

MR I D SMITH asked if the Chairman would be presenting any more such papers. THE CHAIRMAN replied that there would be no more on the administration and elections although the proposals would be filled out after discussion. There also remained the problem of the cease-fire which would be tackled subsequently. MR MUGABE commented that the peace-keeping aspect was vital, as was the structural position of the forces; these were matters he would have wanted to see dealt with within proposals concerning conditions leading to free and fair elections. The Chairman had however chosen to deal with matters piecemeal. THE CHAIRMAN replied that that portion of the British Government's original proposals relating to the forces would best be spelt out in more detail with discussion of the cease-fire; it was not proposed to integrate the forces.

In response to a question from MR NKOMO the CHAIRMAN said that those involved in a cease-fire would be those involved in the fighting. MR NKOMO then made the point that when talking about the conditions for free and fair elections the Chairman seemed to have been talking only about existing forces. He had heard no reference to the other forces involved.

It was agreed that the Conference would reconvene at 10.30 on Tuesday 30 October.

The session adjourned at 11.20.

5. DURATION OF POLLING.

There should be not more than two consecutive days set aside for polling to take place.

6. STATUS OF LEADERS.

Justice should not only be done but be seen to be done. In order to achieve fairness and impartiality, the treatment of leaders must be seen in practice to be equal. This will build confidence and remove suspicion. Consequently, either the status of the bishop and his colleagues should be reduced or that of the Patriotic Front should be raised by extending to them all the privileges to be extended to the bishop and his colleagues in the interim period. This is a vital instrument for building the spirit of reconciliation and co-operation in order to guarantee peace and stability in the future Zimbabwe.

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CC(79)43
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by Bishop Muzorewa during the Eighteenth Plenary Session of the Conference, is circulated to delegates at his request.

Lancaster House
27 October 1979

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BISHOP MUZOREWA:

Mr Chairman,

During the 15th Plenary Session at this Conference I said that I and my Delegation were giving very serious consideration to the document circulated by the British Government on October 22nd which set out proposals for the implementation of the Independence Constitution. We raised a number of important questions with your delegation and have now given further careful consideration to both the proposals and the subsequent clarification we received.

Although we have certain reservations concerning whether all your proposals can be successfully implemented in regard to free and fair elections, I and my delegation are prepared to accept the broad principles of your proposed interim arrangements for bringing the Independence Constitution into effect. Our acceptance is however contingent upon agreement being reached on the definitive details together with suitable and satisfactory arrangements for implementing these.

When I first addressed this Conference on September 11th I declared, Mr Chairman, that neither I nor my delegation would be found lacking in our efforts to seek a realistic solution to our problems, one which would enable our country and all our people to progress in peace to prosperity. This has been foremost in our minds and in our hearts throughout the whole course of our deliberations. We have, from the very beginning of this Conference, displayed the most positive, pragmatic and constructive approach to our negotiations. We have been completely open-minded and have clearly demonstrated a sincere willingness in keeping with

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our democratic principles and commitment to compromise as a means of reaching a fair, honest and just solution beneficial to all our people and providing for genuine majority rule. This has always been our sole objective and to achieve it we have placed our country and our nation before any self interest.

It was within this spirit that I and my delegation accepted the general principles of the British Government's constitutional proposals on September 21st and the proposed Independence Constitution on October 5th. We did so because we believe they represent a fair and reasonable approach towards resolving our difficulties. Furthermore we believe that it provides for the creation of a sound and democratic government in our independent Zimbabwe. We accepted the Constitution because, in our opinion, it presents an opportunity for all our people and our country to make further substantial progress in all spheres of human endeavour. We have maintained that same spirit through our acceptance of the broad principles for the implementation of that Constitution.

We have agreed to the holding of a new election under the supervision of the British Government's authority in keeping with the requirements of the Commonwealth leaders as embodied in the Lusaka accord. This was done with resigned reluctance on our part in compliance with your request Mr Chairman. Our acceptance was despite the fact that we consider another election superfluous and unfair since, as recently as April, our electorate was engaged in our first universal adult suffrage election. Despite potential lethal conditions, that election was conducted freely and fairly under a completely democratic process. I

/must

must reiterate Mr Chairman that we have accepted the British proposals irrespective of the fact that the new election now called for is merely to accommodate those who did not participate previously purely and simply because they themselves chose not to do so. We accepted because of our supreme confidence in the wisdom of our voters to re-affirm their earnest desire for and total commitment to genuine democracy as they so clearly indicated at the previous election.

Finally, Mr Chairman, I and my delegation accept your proposals because of the understanding we received from you during the Plenary Session on October 25th in answer to a question raised by us that the British Government will lift sanctions as soon as our country is returned to legality. We are told that this will come about when Britain has re-established a presence in Zimbabwe Rhodesia. Our aim, Mr Chairman, is identical with yours that agreement should be reached at this Conference which will allow this to happen as soon as possible. I must, however, make the point that it is our belief that sanctions should have been removed at the time we accepted the Constitution. We, in fact, are of the opinion that they should be lifted immediately.

Nevertheless, I and my delegation are now convinced that the interests of all our people and our country will best be served through the British proposals in that the arrangements for the implementation of the new Constitution will herald the fulfilment of all we are seeking - the removal of sanctions - the granting of international recognition - the reconciliation, rehabilitation and unification of our nation - the progress

/of our

of our people and our country to stability and prosperity in peace.

I and my delegation firmly believe that the stage has now been reached where it is possible to move decisively forward towards a speedy and satisfactory conclusion to this Conference. We urge further progress in this regard.

Thank you Mr Chairman

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CC(79)42
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by the Lord Privy Seal during the Eighteenth Plenary Session of the Conference, is circulated to delegates at his request.

Lancaster House
27 October 1979

LORD PRIVY SEAL:

I should like first to make some general comments.

The Patriotic Front's papers say that the organisation and conduct of the elections must be supervised by the United Nations. As Lord Carrington made clear at yesterday's session, the Lusaka communiqué stated in unmistakable terms that there should be elections supervised under the British Government's authority. This was agreed by 39 Heads of Government and for us it is a question of principle. We intend to carry out that responsibility and our proposals describe how we propose to do so. We have been in touch in recent days with Commonwealth Governments to explain our proposals. None of them has questioned that this is Britain's responsibility. I must repeat that, as Lord Carrington said yesterday, in this and in other important respects, we stand by what was agreed at Lusaka.

Mr Mugabe said in his statement that the purpose of this Conference was to achieve peace and suggested that the British Government's proposals sought to frustrate that aim. This is a travesty of the position. There will be peace in Rhodesia when the parties at present engaged in the conflict agree to stop fighting. At the beginning of this Conference, Lord Carrington appealed to all the parties to observe a cease-fire. Bishop Muzorewa and his delegation agreed. It was our hope that agreement on the Independence Constitution would bring a cessation of hostilities nearer.

Mr Mugabe complained that the British Government's proposals gave unfettered power to the Governor. This is a point which has also been made by Bishop Muzorewa's delegation. We have

/proposed

proposed that the Governor should have extensive powers because he will need them if he is to ensure the conditions for genuinely fair elections in which all parties can take part. If Britain is to assume its responsibility for supervising elections held under its authority, it is essential that the Governor should, for the short time involved, have these powers. The Patriotic Front's proposals for a transitional administration seem to us a recipe for deadlock and confusion. The role of the political parties in this period will be to explain their policies to the people and fight the election campaign. It will be for the Governor to ensure the conditions to enable them to do so freely and lawfully and to supervise the administration of the country in an impartial manner.

Mr Mugabe suggested that the British proposals ignored the Patriotic Front's forces. What our proposals seek to achieve is a framework for the holding of elections and the impartial administration of the country during the election campaign. If there is agreement on that we shall be ready to go on to discuss the cease-fire. I should emphasise that the British Government regard discussion on the cease-fire as the final phase of the Conference. We have reached agreement on the Independence Constitution. If agreement is reached on the political framework for the interim period, we shall then be ready to arrange discussions under our Chairmanship between the military experts of both sides to arrange the cease-fire. I should add that our proposals do not exclude the Patriotic Front's forces. If there is agreement at this Conference, we should expect their forces to be answerable to the British

/Governor

Governor for their part in maintaining the cease-fire.

Mr Mugabe suggested that the British Government's proposals were a recipe for a coup and resumption of the war. This is another respect in which his remarks are wholly unjustified. Our purpose here is to give all parties an opportunity to win power peacefully through elections. The corollary of that is that all interested must agree to accept the verdict of the people.

To conclude these general comments, I must take issue with Mr Mugabe's criticism of Britain's record of decolonisation. I do not think many Commonwealth leaders in Africa or elsewhere would agree with his remarks. Our aim at this Conference is to give the people of Rhodesia the opportunity to decide for themselves the future government and direction of their country, on the basis of genuine majority rule.

I propose now to take up some of the more detailed points in both statements, beginning with the conduct of the elections.

I welcome Mr Nkomo's statement that the primary objective of the interim arrangements is to create and maintain conditions for free and fair elections. We share that aim. We agree that all parties must be able to take part on equal terms, on the basis of universal adult suffrage.

Mr Nkomo said that the primary condition for free and fair elections is peace and security in the country and observance of fundamental freedoms. The British Government agrees. An effective cease-fire will be a fundamental element in this process.

Mr Nkomo described the preparatory processes leading up

/to

to elections. The British Government will be looking to both sides to release anyone detained arbitrarily and on political grounds. The British Parliament will enact the relevant parts of the Independence Constitution to allow elections to be held. We do not think it feasible to promulgate a new Electoral Law. The law currently in force is in many respects common form, and some of the relevant provisions could apply. There may have to be legislation to fill gaps and deal with particular problems, and this will be a matter for the Governor. We do not envisage an Electoral Commission in the terms proposed by the Patriotic Front. If we are to exercise our responsibility to supervise the elections, there cannot be parallel bodies claiming the same responsibility. Our responsibility will be exercised through an Election Commissioner and his staff, who will have the right to enquire into any aspect of the conduct of elections and see that complaints are properly investigated. The Election Commissioner would chair an Election Council on which all parties taking part in the elections would be represented. It would be a consultative body. The members of the Council will be able to make representations to the Election Commissioner on any matter concerning the elections.

Lord Carrington has already explained to the Conference the British Government's view that it will not be feasible to conduct a registration of voters or delimitation of constituencies before the elections. This would take several months: we do not regard the estimate of three months in the Patriotic Front's proposals as realistic. I understand that registration for the recent elections in Botswana took nearly one year. But

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CC(79)71

COPY NO:

89

THIRTY SECOND PLENARY SESSION

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the Thirty Second
Plenary Session of the Conference, Wednesday
14 November 1979.

Lancaster House
14 November 1979

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there must of course be provision to prevent fraudulent or multiple voting. We envisage that voting would take place on party lists. There are many countries where this is the usual practice.

Mr Nkomo spoke of the need to ensure that all parties must be able to campaign in safety. The British Government agrees that this should be so. We agree too with many of the points which Mr Nkomo made on the conduct of polling. We think it right that each party fielding candidates in a particular district should have a right to have one representative at a polling station.

It is not clear to us why the Patriotic Front reject the use of mobile polling stations. Nor are we convinced that polling can be conducted on one day. No doubt they will let us have their further thoughts on these points.

Our objective is that elections should be held under a cease-fire in which case there should be no need for martial law. The extent of the emergency provisions which would be necessary would be a matter for the Governor.

We come next to the length of the interim period. Lord Carrington has earlier put to the Conference our firm view that the period should be no longer than is necessary to hold elections and allow the people of Rhodesia to make their choice of a government. We do not believe that any party will need more than two months to explain its policies to the people of Rhodesia. I am surprised by the assertion in Mr Nkomo's statement that it would take two months for a cease-fire to be effective. I hope the Patriotic Front will re-consider their calculations.

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I shall take up next the points made by Mr Mugabe and Mr Nkomo on the role of the Governor and the administration of the country in the interim period.

The British Government's purpose in appointing a Governor is to ensure that the administration of Rhodesia during an election campaign, in which all parties can participate, is fair and impartial. Mr Mugabe suggested that the British Government itself would not be impartial. I should like to remind him that our role in other dependent territories has been to establish conditions for independence, not to encourage the aspirations of one party or another. In a number of countries we have handed over power to people who had previously been confirmed opponents of the United Kingdom when they have been elected by the people of their countries. But there can be no question of handing over power to those who have not been elected. We do not believe it would be feasible or practicable for the administration of the country to be conducted by a body representing both sides. The public services will be under the Governor's authority and responsible to him. In all matters concerning the elections he will have direct responsibility exercised through the Election Commissioner and his Advisers. We are confident that these powers will enable him to ensure impartial administration and fair conditions for the elections.

I have already explained the conditions under which we shall be ready to begin discussions on a cease-fire. This will come next, once we have reached agreement on the interim period. But clearly what is required is a strong commitment by both sides

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to make the cease-fire work and an equally strong commitment to accept the results of elections.

I have set out the British Government's views on the Patriotic Front's proposals at some length. I have emphasised that the British Government is prepared to carry out to the full its responsibility as the decolonising power on the terms agreed by the Commonwealth Heads of Government. We have fully adequate experience of conducting free and fair elections as Commonwealth leaders can themselves testify. The proposals which we have tabled require both sides to accept our authority. It is our view that agreement is possible on this basis; and we doubt very much if it is possible on any other basis. I would ask you to consider them in the light of Lord Carrington's statement introducing them and my own comments today.

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CC(79)41

COPY NO: 89

EIGHTEENTH PLENARY SESSION

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Eighteenth Plenary Session of the
Conference, Saturday 27 October 1979

Lancaster House
27 October 1979

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PRESENT:

UK Delegation

Sir I Gilmour Bt (in the Chair)

Mr R Luce

Sir M Palliser

Sir J Graham

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr C D Powell

Mr P J Barlow

Mr A M Layden

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe

Mr S V Muzenda

Mr J M Tongogara

Mr H Ushewokunze

Mr D Mutumbuka

Mr J Tungamirai

Mr E Zvobgo

Mr S Mubako

Mr W Kamba

Mr J M Nkomo

Mr T G Silundika

Mr A M Chambati

Mr John Nkomo

Mr L Baron

Mr S K Sibanda

Mr W Musururwa

Mr D N Madzimbamuto

Miss T Siziba

Bishop Muzorewa and Delegation

Bishop A T Muzorewa

Mr E L Bulle

Mr F Zindoga

Mr D C Mukome

Mr G B Nyandoro

Rev N Sithole

Mr L Nyemba

Chief K Ndiweni

Mr Z M Bafanah

Mr I D Smith

Mr D C Smith

Mr R Cronje

Dr J Kanusikiri

Mr L G Smith

Air Vice Marshal H Hawkins

Mr D Zamchiya

Mr G Mutambanengwe

Secretariat

Mr J M Willson

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The session commenced at 11.05.

THE CHAIRMAN recalled that at the previous meeting Mr Mugabe and Mr Nkomo had both made statements on the arrangements for the interim period. The texts had subsequently been circulated (Conference Papers CC(79)39 and CC(79)40). Lord Carrington had promised that the British Government would give an early reply.

The Chairman then delivered a statement in answer to the papers tabled by Mr Mugabe and Mr Nkomo, which was subsequently circulated as Conference Paper CC(79)42.

MR MUGABE thanked the Chairman for his response. It amounted, however, to a reaffirmation of the British position, which threw into doubt the usefulness of the whole exercise. Why had his delegation been invited, if the main intention was to accept what the British said? Mr Mugabe had gathered from the document on the pre-independence arrangements tabled by the British delegation on 22 October (Conference Paper CC(79)32) that the British proposals were negotiable. It now seemed that they were final. If so, the Chairman should let it be known that this was the British point of view.

Mr Mugabe asked the Chairman to remember that his delegation had come to London thinking that it was not merely a constitutional Conference, but a peace Conference. It was necessary to take into account the fact that there was a war going on and that, if war was to be transformed into peace, his delegation's viewpoint had to be considered. It was the Patriotic Front

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which had undertaken the decolonising process as a result of British failure. It was on the basis of the Patriotic Front's achievement that the British side was now able to assert its authority. Britain itself had no authority in Zimbabwe. His delegation would be happy to take part in a peace conference, but could not accept dictatorship.

THE CHAIRMAN expressed surprise that Mr Mugabe had questioned the usefulness of the Conference, at which a considerable measure of agreement had been reached after concessions by both sides on the constitution. Little was to be gained by looking back in detail over the last 15 years. He did not think the previous Salisbury regime would agree that Britain had aided and abetted it over that period. The British Government had put forward its proposals in its capacity as the decolonising power. Negotiations were difficult when neither side could have its own way completely. What his delegation was now seeking was the acceptance of the basic principle that elections should be supervised under British authority. If agreement could be reached on that, then the Conference could proceed to discuss the details of the election arrangements.

MR MUGABE said that he did not think there was disagreement on basic principles. There was, however, disagreement on the modalities; where his delegation had put forward alternative proposals which, it believed, would prove more effective, he did not understand why the British side stuck to their position without rationality. He gave as an example his
/delegation's

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delegation's proposals on the balance of forces. It would be unfair for Britain simply to return and decolonise after all these years. It was necessary to recognise the prevailing conditions; the parties in conflict should be on an equal footing during the interim period. They were not suggesting that the Patriotic Front should be predominant, nor should predominance be given to the other side. They wanted to see equality in administration and in the maintenance of law and order. The British proposals would have the effect of relegating his side to an inferior position and of promoting the other side, which had committed treason; their actions should not now be legalised. THE CHAIRMAN replied that what the British delegation was seeking to do was to provide conditions for all parties to achieve power on an equal basis. His delegation held very strongly to the view that this was only possible under British authority. If the other delegations could agree on some other basis, the British delegation would of course be prepared to consider it; but, in their view, that was not possible. Britain had the responsibility, and therefore had to have the authority and also the power. There was nothing dictatorial in seeking to provide the conditions for elections in which all parties could participate. If this could be accepted the Conference could then move on to the details of the Election.

MR MUGABE asked whether the Chairman really believed that, if the Patriotic Front took part in elections when the

/Rhodesian

PRESENT:

UK Delegation

Lord Carrington (in the Chair)

Sir I Gilmour Bt

Lord Harlech

Mr R Luce

Sir M Palliser

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr P J Barlow

Mr A M Layden

Mr R M J Lyne

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

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Rhodesian forces were functioning as the security forces and when the British were in control of the police force, those elections would be free and fair. THE CHAIRMAN said that the security arrangements would be for discussion later. What his delegation was currently proposing was that the elections should take place with a British Governor and under British Government authority. They would be on trial before world opinion, which would be watching to see that the elections were being conducted freely and fairly.

MR NKOMO said that both the British delegation and his delegation had tabled papers and had made comments on each other's contributions. Was the Conference now set to negotiate? THE CHAIRMAN said that there would of course be negotiation once agreement had been reached on the principle of British Government authority, which was fundamental to the Lusaka Agreement. All the papers which had been tabled would be relevant. He added that when he had had the comments of both delegations the meeting would be able to discuss the arrangements for elections in detail.

MR NKOMO said that his delegation wished to be certain of the procedure. They had come to the Conference to negotiate peace as well as a constitution; this was vital for his people. Zimbabwe was at war; what had happened in other colonies was not relevant. It was necessary to discuss conditions which would permit free and fair elections to take place. The structure for running the country in this period had to be discussed. The British had proposed the appointment of a Governor, who would have sweeping powers. He would have

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British and local support staff and would use the existing security forces and police. More clarification of these proposals was necessary. The British proposals for the security forces had been clear, but the role of the Patriotic Front forces was not defined. Did "a return to legality" mean legalising those institutions which had existed at UDI, or did it include those created since that date? The Lusaka agreement had recognised Britain as the administering power in Rhodesia, but did not necessarily exclude other parties playing a rôle in the elections. Another force was needed because of the situation in Rhodesia. Well over 100,000 armed men were locked in battle; what would happen if a cease-fire was arranged and then broke down? His delegation wanted a peace which would make every citizen secure; this was not possible under the British proposals. His delegation had come to London to negotiate, and its views on the Lusaka Communiqué differed from those of the British delegation.

MR NKOMO also expressed concern at Mr Pieter Botha's statement that, if law and order broke down in Rhodesia or if the Patriotic Front came to power, South Africa would intervene. His delegation would like to feel that, if the cease-fire broke down, someone would ensure that the ordinary people of Zimbabwe would not suffer. It was the British Government who went to the UN in 1977 to seek their assistance. That body was still available to play a part. That is why his delegation wished to bring in the UN; it was the only international /organisation

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organisation which could be of service to the people of Zimbabwe.

THE CHAIRMAN said that he did not think it appropriate for delegates to impugn each other's motives. The situation in Zimbabwe Rhodesia was grave and the British were seeking to remedy it. There was no doubt of the British desire to bring about peace.

BISHOP MUZOREWA said that he wished to state that the present Government of Zimbabwe Rhodesia had been elected by 64.8 per cent of the electorate. It had not committed treason. He then delivered a statement, subsequently circulated as Conference Paper CC(79)43.

THE CHAIRMAN thanked Bishop Muzorewa and said that he was grateful for his delegation's acceptance of the British proposals. It had been a difficult decision, and represented a considerable advance in the proceedings of the Conference. If the Patriotic Front was also able to accept the proposed arrangements for fair elections, a peaceful settlement was within their grasp.

REV SITHOLE said that he was deeply hurt by the accusation of treason. He asked that each side should be fair to the other, and recognise that a new situation now existed. Although the Rhodesian Front Government had been in a state of rebellion, the government formed by the March 3rd agreement had brought in universal suffrage, which the Rhodesian Front Government had opposed. The government which committed treason was now out of power.

/THE CHAIRMAN

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THE CHAIRMAN said that he was sure that all would agree that it was not desirable to fight the battles of the past. MR SILUNDIKA said that, until legality was restored, rebellion continued to exist. It was therefore not insulting to refer to the rebellion, since it was a technical reality. The remarks by the Bishop merely reflected British policy. As Mr Mugabe had said, there was no difference between his delegation and the British on questions of principle such as the appointment of a Governor and the holding of elections. It was modalities that they wished to negotiate, and on which they needed further clarification.

THE CHAIRMAN said that the aim of the Conference was peace and a return to legality, not legalising the present situation. MR MUGABE said that he did not think it insulting to discuss a situation which still remained to be rectified. MR NYANDORO said that the Conference should not become bogged down on the question of illegality, but rather concern itself with the present problems of the country; otherwise the purpose for which the Conference was convened would be lost.

MR NKOMO asked if all papers tabled were for discussion, or only particular documents. THE CHAIRMAN replied that all documents were relevant but, as Lord Carrington and he had already made clear, British supervision was a matter of principle for his delegation, on which they stood quite firm. In their view it was the only way agreement could be reached.

At THE CHAIRMAN's suggestion, the meeting was adjourned at 12.15.

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The meeting reconvened at 12.37.

THE CHAIRMAN said that the Conference had been sitting for a long time, almost seven weeks, and there was a general wish to make progress; he therefore proposed that the Conference should reconvene at 14.30. MR NKOMO asked whether the Chairman's statement and that of Bishop Muzorewa would be circulated as he considered it important that other delegations should be able to consider both. THE CHAIRMAN agreed that this was important, but said that it did not prevent the meeting getting on immediately with more detailed discussion.

MR NKOMO asked for a ruling on the name to be used for Zimbabwe Rhodesia. THE CHAIRMAN said that he recalled having used three forms of name, but this was something which could be discussed later.

MR NKOMO said that his delegation could not effectively take part in discussions unless they were clear about the implications of the Chairman's and the Bishop's statements. After further discussion THE CHAIRMAN said that, in deference to the wishes of others, the British delegation would get in touch with other delegations the following morning to arrange the next meeting.

The meeting adjourned at 12.42.



Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe

Mr J M Nkomo

Mr S V Muzenda

Mr J M Chinamano

Mr E R Kadungure

Mr J W Msika

Dr H Ushewokunze

Mr T G Silundika

Mr D Mutumbuka

Mr A M Chambati

Mr J Tungamirai

Mr L Baron

Mr E Zvobgo

Mr S K Sibanda

Mr S Mubako

Mr W Musarurwa

Mr W Kamba

Miss E Siziba

Bishop Muzorewa and Delegation

Dr S C Mundawarara

Mr E L Bulle

Rev N Sithole

Chief K Ndiweni

Mr D C Smith

Dr J Kamusikiri

Mr L G Smith

Air Vice Marshal H Hawkins

Mr D Zamchiya

Mr M A Adam

Mr P Claypole

Mr D Bradley

Mr A R MacMillan

Secretariat

Mr J M Willson

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The session began at 16.41.

THE CHAIRMAN said that he understood that Mr Mugabe's and Mr Nkomo's delegation wished to table a document.

MR MUGABE said that those present were aware that when President Kaunda visited London the previous week he had made certain proposals to the British Government, both verbally and in writing. At the end of his visit and after his discussions with the Chairman, President Kaunda, who had been Chairman of the Commonwealth Heads of Government Meeting in Lusaka, had given a copy of his proposals to the Patriotic Front. Although these proposals, which had been put forward in an effort to bridge the gap between the Patriotic Front and the British Government, fell short of those made by Mr Mugabe and Mr Nkomo's delegation, they now wished to place on record that, in an attempt finally to resolve the differences on the outstanding issues, they formally adopted President Kaunda's proposals. His delegation now wished to table them as a Conference Document. They were subsequently circulated as Conference Paper CC(79)72. In doing so their desire was that the serious matters raised by President Kaunda, which required serious examination, should be discussed by the Conference, preferably in committee.

THE CHAIRMAN made some comments (subsequently circulated as Conference Paper CC(79)73) on President Kaunda's proposals.

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He then explained that, in response to President Kaunda's paper, the British Government had also handed a paper to him. The Chairman wished to repeat it and clarify a number of aspects. He then delivered a statement subsequently circulated as Conference Paper CC(79)74.

After doing so, the Chairman asked whether, in the light of all he had said, the Patriotic Front delegation would let him know whether they could accept the arrangements proposed by the British Government for the pre-independence period, as Bishop Muzorewa's delegation had done, subject to the subsequent negotiations on the cease-fire.

The Chairman then suggested an adjournment. The session ended at 16.55.

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CC(79)70
THIRTY-FIRST PLENARY SESSION

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Thirty-First Plenary Session, Monday
12 November 1979

Lancaster House
12 November 1979

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PRESENT:

UK Delegation

Lord Carrington (in the Chair)

Mr D M Day

Mr R W Renwick

Mr N M Fenn

Mr G G H Walden

Mr A M Layden

Mr R M J Lyne

Mrs A J Phillips

Mr M C Wood

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Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr E L Bulle
Rev N Sithole
Mr D C Smith
Mr L G Smith
Air Vice Marshal H Hawkins
Mr D Zamchiya
Mr M A Adam
Mr P Claypole
Mr D Bradley
Mr A R MacMillan

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Mr Mugabe, Mr Nkomo and Delegation

Mr J M Nkomo

Mr J M Chinamano

Mr J W Msika

Mr T G Silundika

Mr A M Chambati

Mr L Baron

Mr S K Sibanda

Mr W Musarurwa

Miss E Siziba

Mr R G Mugabe

Mr S V Muzenda

Dr H Ushewokunze

Mr J Tungamirai

Mr E Zvobgo

Mr S Mubako

Mr W Kamba

Secretariat

Mr J M Willson

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The session commenced at 16.06.

THE CHAIRMAN said that he understood that Mr Nkomo and Mr Mugabe had asked for a session of the Conference to be convened.

MR NKOMO confirmed that this was so. His delegation wished to put to the Conference its view that the time had come for the formation of smaller groups, which could go into the various problems highlighted in his delegation's response (CC(79)69) to the British proposals and the Chairman's comments on it (CC(79)68). Mr Nkomo said that these smaller groups need not necessarily be bilateral; they could include members of Bishop Muzorewa's delegation, if they wished to participate.

THE CHAIRMAN said that the British Government had over the weekend put forward a number of positive suggestions, partly as a result of the visit to London of President Kaunda:

- (a) it had been emphasised that the Governor would be prepared to meet any political leader, should matters arise which could not be resolved by their respective advisers;
- (b) the British Government was ready to do everything possible to help with the resettlement of refugees, in conjunction with the other governments concerned, international organisations and other governments which were prepared to offer aid to this end;
- (c) it had been explained that all parties would have an equal status on the Election Council, and that any of

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its members would be free to make representations to the Election Commissioner on any matter relating to the elections, i.e. on their organisation and administration, on access to the media and on arrangements for public meetings etc. This, the Chairman suggested, constituted a very wide mandate. The Council would have no connection with the existing machinery of government;

- (d) finally, the British Government had repeated that the cease-fire would be for discussion in the next phase of the Conference.

The Chairman hoped that the positive elements in those suggestions would be recognised.

The Chairman said that he was happy for a smaller group, as proposed by Mr Nkomo, to start work. It was up to the Salisbury delegation to decide whether they wished to participate. This smaller group might meet the following morning in a determined effort to reach final agreement on the interim proposals. The Conference had been discussing these for a very long time, and decisions must be reached in the next day or two.

MR NKOMO said that matters raised during the visit of President Kaunda might be discussed either bilaterally or within the smaller group, with a determination to arrive at decisions. It was not fair, however, to demand that agreement should be reached within two days. His delegation hoped that a speedy
/agreement

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agreement would be attainable, but the group would be considering the most sensitive issues raised during the Conference. It was necessary to proceed coolly.

THE CHAIRMAN reiterated the requirement for an early decision, and then adjourned the Conference.

The session ended at 16.14.

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CC(79)69
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The Delegation of Mr Mugabe and Mr Nkomo
has asked that the attached document
should be circulated to delegates to replace
Conference Paper CC(79)66.

Lancaster House
12 November 1979

PATRIOTIC FRONT

RESPONSE TO BRITISH GOVERNMENT'S DETAILED

PROPOSALS

FOR IMPLEMENTING THE INDEPENDENCE CONSTITUTION

I. Introduction.

- 1.1. At the conclusion of the discussions on the Independence Constitution we reserved our position on several aspects but agreed not to re-open discussion on them provided we were satisfied as to the transitional arrangements. The British proposals do not satisfy our essential requirements for the interim period.
- 1.2. All parties agree that the basic objectives of this conference are:-
- (a) the achievement of lasting peace in Zimbabwe, and
 - (b) the achievement of independence on the basis of genuine majority rule.
- 1.3. The major function of the interim administration is to prepare for and conduct free and fair elections. We have stressed in our previous papers, as the British Government agrees, that the primary condition for free and fair elections is peace and security in the country. As we show below, the British proposals will not achieve peace and security, nor do they provide the machinery which will ensure that all parties can contest the elections on equal terms.

2. The Interim Administration.

2.1. The British proposal to govern through the existing institutions is partial and a negation of the principle of free and fair elections for the following reasons:-

- (a) the Governor will in fact rely on the existing power structure, which remains in the hands of the regime; this favours the regime and prejudices the Patriotic Front;
- (b) the Patriotic Front has no channel for influencing the decision-making process, whereas the regime has the channel of the existing machinery of the Public Service; this is particularly prejudicial in the areas affecting the elections;
- (c) the fact that the existing institutions of power remain unchanged will have a serious intimidatory impact on the electorate prejudicial to the Patriotic Front.

2.2. Our proposal for a Governing Council composed of equal numbers from the Patriotic Front and the regime and with the Governor as Chairman has the following advantages:-

- (a) both parties will have direct contact with the whole administrative process leading to elections, and will therefore be able to satisfy themselves that the elections are free and fair;
- (b) executive and legislative action will be

taken after consultation between the Governor and both parties, and not, as under the British proposal, after consultation only with the top officers in the existing public service. Under our proposals these top officers would be replaced.

The British assumption that the representatives of the parties serving on the Governing Council will be unable to work together has no basis, and is a contradiction of the principle of reconciliation which Britain has repeatedly advanced.

3. Elections

3.1. The Commonwealth Heads of Government said, in paragraph (g) of the Lusaka communique, that the government of Zimbabwe must be chosen through free and fair elections "properly supervised under British Government authority, and with Commonwealth observers."

3.2. We are satisfied that if the Heads of Government had intended the supervision to be by Britain alone they would have said so in those terms, which would have been simple and permitting of no other interpretation. By using the expression "under British Government authority" they clearly intended the participation of some other agency. Our proposals for an Electoral Commission and supervision by an international agency fall squarely within the Lusaka communique.

3.3 In their final paper the British government state that the role of the Commonwealth observers will be "to observe that the elections are genuinely free and fair" and that "no restrictions will be placed upon their movements, and every effort will be made to facilitate their task". We understand this to mean that the observers will participate fully in the whole electoral process. This is the position we have consistently maintained.

3.4. Britain criticises our proposal for an Electoral Commission on the grounds that there cannot be two parallel bodies performing the same functions. We have not proposed parallel bodies; on the contrary, the British proposal for an Election Commissioner and a separate Election Council creates two bodies to perform the functions which would be performed by our Electoral Commission, under British authority.

3.5. The British proposal for an Election Commissioner suffers from the same fundamental defect as the whole British approach to the interim administration; since he has to rely on the existing Public Service to the exclusion of the Patriotic Front the Election Commissioner's administration of the electoral process cannot be impartial.

3.6. Our proposal for an Electoral Commission has the following advantages:-

- (a) it ensures direct contact by both parties with the electoral process, thereby ensuring

impartiality;

- (b) it would reduce administrative difficulties in such areas as the provision of interpreters.

3.7.1. We maintain that a proper registration of voters is absolutely essential. Without a proper registration of voters elections cannot be free and fair; there would be endless opportunity for fraud, such as:-

- (a) voting by non-residents, such as tourists and people coming from across the borders;
- (b) voting by people under age;
- (c) voting more than once;
- (d) fraudulent voting cards, i.e. the introduction into ballot boxes of voting cards completed fraudulently in advance;
- (e) if the party list system is used on a district basis, voting in a district other than that of one's residence.

3.7.2. There is another serious consequence of non-registration if the party list system is used on a district basis. Without registration it will be impossible to determine the voting population with any degree of accuracy for the purpose of apportioning seats in respect of each district.

3.7.3. We do not accept Britain's assertion that registration would take a very long time. The time would depend entirely on the size of the staff; with an adequate staff registration could be completed comfortably in three months. In Zambia prior to

independence, voters were registered at the rate of 700 per day per constituency; this rate would enable 3,000,000 voters to be registered in Zimbabwe in sixty working days.

3.7.4. We stress that a register of voters is essential whether the elections are conducted on a constituency or a party list basis. We would have no objection to the party list system provided (a) there is proper registration of voters, and (b) the same system is used for the election for the reserved white seats.

4. Security Arrangements

4.1 Peace and security are vital to free and fair elections. The British proposals do not provide security and will not achieve peace, because:

- (a) the people cannot feel secure when the forces maintaining law and order are those of the regime alone;
- (b) a cease-fire cannot possibly hold without an international peace-keeping force.

4.2 Our position is that there should be a Transitional Police Committee, composed of representatives of the Patriotic Front and the regime whose principal functions will be to supervise the maintenance of public order, to provide liaison between the civil administration and an international police force, and to commence the process of building the new Zimbabwe Police Force. The international force will be combined with Patriotic Front and Rhodesian elements, under British authority.

4.3. Immediately on the coming into force of the Transitional Order in Council martial law and the state of emergency must be brought to an end. The British Government has remained silent on the question of the state of emergency.

4.4. The constant reference by the British to a cease-fire and the responsibilities of the parties in relation thereto reveal an understanding of a cease-fire to which we cannot subscribe. We understand by a cease-fire that parties maintain their positions and stop shooting; the British proposals entail policing by the regime's police, which is a para-military force, of areas occupied by us. The forces presently locked in combat in Rhodesia must be accorded equal status during the interim period; the British proposal accords legality to the regime's forces and denies it to ours. This is unacceptable. The only solution is an international police force, combined with Patriotic Front and Rhodesian elements, to maintain law and order over the whole country.

5. Length of Interim Period.

5.1. The British proposal to limit the election period to two months is totally unacceptable. We are on record as saying that the whole interim period must not be unduly long. However, it must not be so short as to negate the principle of free and fair elections. The length of the period must not be fixed arbitrarily, but

must allow the completion of the necessary processes preparatory to an election and must give both delegations a fair chance to get back to the country, organise themselves for elections and to explain their policies to the electorate.

5.2 In paragraph 10, the British document makes the startling suggestion that a cease-fire can hold for two months but not for six months. This argument is totally unfounded. The effectiveness of the cease-fire depends on the agreement, the will to observe it, and the adequacy of the machinery for policing it. Military experience suggests that it is in fact more difficult to maintain a cease-fire in the first two to three months rather than in later periods.

5.3 The periods which the British delegation proposes have the effect of:

- (a) putting the Patriotic Front at an electoral disadvantage and
- (b) enabling the British Government to wash their hands of the Rhodesian problem and to get out quickly, leaving chaos behind.

The Patriotic Front is at present banned; we have to get back into the country, assist in the return of refugees, set up an election machinery and campaign for election. It is plain that the British proposal that all this should be done in two months is highly prejudicial to the Patriotic Front and is intended to favour the Salisbury regime. Our period of six months was chosen after careful consideration and taking into account the time required for the completion of all the essential processes and the need to be fair to all parties.

6. The process of decolonisation envisaged by this conference will require two Orders-in-Council i.e. the Interim Constitutional Arrangements and the Transitional Order-in-Council introducing the Independence Constitution. The provisions of both orders are of crucial importance and must be agreed on at this conference.

7. The British delegation constantly refers to the Salisbury delegation having made "considerable sacrifices" by agreeing to hand over executive and legislative power to the Governor. We must remind the British government that the Salisbury delegation are members of an illegal regime, and that the fact that many of them had nothing to do with UDI in November 1965 does not save them; they chose to join the rebellion, and are now as much a part of it as any of the original perpetrators.

One of the objects of this conference is to end the illegality. It is outrageous for the British Government, which has always regarded the regime as illegal and which says that it does not recognise it, now to commend them for agreeing to relinquish the spoils of their illegal conduct.

8. We draw attention to the agenda, drawn by the British delegation and agreed by the conference. It contains only two items, the Independence Constitution and the Pre-Independence Arrangements. It was agreed also that agreement on the former was contingent on agreement on the latter, which includes the cease-fire. The British Government cannot now demand that there be agreement piecemeal on individual items falling under the heading of Pre-Independence Arrangements before passing on to other items.

9. There is clearly a gap between our position and that of the British government as to the essential requirements of the interim arrangements. A determined effort must be made by all parties to bridge that gap; it will not be bridged by pressure tactics or by issuing ultimata.

CC(79)68

CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered
by the Chairman during the Thirtieth
Plenary Session, is circulated to
delegates at his request

Lancaster House
10 November 1979

LORD CARRINGTON:

I have studied very carefully the statement which Mr Nkomo made yesterday in response to the full proposals which the British Government put forward on 2 November for the pre-independence period.

We agree that a basic objective of this Conference is the achievement of independence on the basis of genuine majority rule. All parties to the Conference have given their conditional agreement to an independence Constitution which, indisputably, provides for genuine majority rule.

It is also our objective to achieve peace. The only way to do so is to offer the parties to this Conference a chance to settle their differences by political means in fair elections held under the British Government's authority.

We also agree that the function of the interim administration is to prepare for and conduct fair elections. We do not agree that our proposals do not provide arrangements which will enable the parties to contest the elections on equal terms. The whole purpose of our proposals is to enable them to do so.

We are prepared to assert British authority during the interim and to make ourselves fully responsible for seeing that free and fair elections are held in order to implement the independence Constitution which has been agreed in this Conference. We would not be prepared to do so under conditions or for a period which would make it impossible for us to carry out that responsibility. Once we have asserted our authority, it will be exerted impartially.

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The Patriotic Front object to the use of "existing institutions". There is no practical alternative to Britain asserting its authority over the existing civil service and other services. All the parties will be represented on the Election Council. None of the parties will have any role in running the administration during the interim period.

Bishop Muzorewa and his delegation have accepted this; and we hope that it will also be accepted by the Patriotic Front.

We have already discussed at length the Patriotic Front's proposals for a governing council. We have explained that it will be for the Governor to conduct the administration in the interim period, and to ensure that it is impartial. The role of the Patriotic Front leaders in this period, as of the other political leaders, will be to put their case to the people of Rhodesia.

The Governor's function will be to ensure that they are able to do so freely and fairly. All the party leaders will be able to make representations to the Governor directly through the machinery of the Election Council.

The Governor will not be a "titular head". He will have executive and legislative authority. He will be supported by a substantial British staff to assist him in carrying out his responsibilities.

Mr Nkomo yesterday pointed out that the Lusaka communiqué stated that the future government would be chosen through free and fair elections "properly supervised under British Government authority and with Commonwealth observers". We cannot see

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how it can conceivably be argued that by using the expression "under British Government authority" the Commonwealth leaders really meant the participation of "some other agency". If they had meant that, they would have said so. The elections will be supervised by the British Government, with the Commonwealth observers present.

We agree that the Commonwealth observers should be present during the election campaign and not just for polling. The British Government will be inviting all Commonwealth countries who wish to do so to send observers to the elections. We do not envisage that they will confine their attention to what happens on the days when polling takes place. We assume that they will want to observe the electoral process as a whole and this is what our paper was intended to convey. I hope there is understanding between us and the Patriotic Front on this point. The parties will be represented on the Election Council and through that machinery will be able to raise any matters concerning the elections; and indeed if I may revert to something, this is what was agreed at Lusaka.

The responsibility for supervising the elections will rest with the British Election Commissioner. He will have a substantial and experienced British staff to assist him in supervising the elections to the full extent necessary to ensure that they are fairly conducted. We do not accept that he will not be impartial, and if in any respect the parties can show that the administration of the election is not in fact impartial the Election Commissioner and the Governor will have a duty to see that appropriate action is taken.

We have already explained that a full registration of voters would take many months. But there must be fully adequate safeguards against fraudulent or multiple voting. These will be a matter for the Election Commissioner, in consultation with the parties. Representatives of all the parties will be present at the polling stations and will be able to satisfy themselves about the fairness of the voting. I note that the Patriotic Front's statement expresses a willingness, in principle at least, to consider a party list system. This will avoid the need for the de-limitation of constituencies, which would involve long delays before the independence elections can be held.

We understand the Patriotic Front's concern that the police should act impartially. That is also our concern. That is why we have proposed that the police will act under the authority and supervision of the Governor and of his police advisers, and that British police officers will be attached to the police in the regions. We cannot believe that any other plan is feasible.

We agree that as soon as there is an effective cease-fire there will no longer be a need for martial law. The emergency provisions will be reviewed by the Governor.

We are not clear why the Patriotic Front object so strongly to an election campaign lasting two months. The Patriotic Front have often stated that they enjoy the support of the majority of the people of Zimbabwe. The British Government is offering them the chance to put their electoral support to the test.

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Their policies are well known to the people of Rhodesia. We regard the period of two months as fully adequate for all the party leaders to be able to explain their positions and policies and to enable the people of Rhodesia to choose their future leaders.

On the question of the cease-fire, we have already stated that we do not consider that a period of anything like two months, as proposed in the Patriotic Front's earlier paper, should be necessary to bring a cease-fire into effect.

The Patriotic Front have said that the fact that many members of the Salisbury delegation had nothing to do with the illegal declaration of independence "does not save them". The purpose of this Conference is to bring the rebellion and the state of illegality to an end. We are anxious to find a settlement in which both sides will be able to participate. This can only be based on a willingness by both sides to put their political support to the test in fair elections held under our authority.

It is not the British Government's intention, as the Patriotic Front suggested in their statement yesterday, to wash our hands of the Rhodesia problem. If that had been our intention, we need never have embarked on this Conference or on the consultations which led up to it. Nor indeed would we have continued it for so long. We continue to hope that this Conference will lead to a solution which will bring peace and a more secure future to the people of Rhodesia. But that does depend on a willingness of all the parties to settle their differences by political means.

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I hope that, in the light of what I have said, the Patriotic Front will now feel able to agree to our general proposals for the pre-independence period, subject to the subsequent negotiations on the cease-fire and the arrangements for monitoring it.

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CC(79)67
THIRTIETH PLENARY SESSION

COPY NO:

89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of
the Thirtieth Plenary Session,
Saturday 10 November 1979

Lancaster House
10 November 1979

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PRESENT:

UK Delegation:

Lord Carrington (in the Chair)

Sir I Gilmour

Sir M Palliser

Sir L Allinson

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr R D Wilkinson

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

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Mr Mugabe, Mr Nkomo and Delegation

Mr S V Muzenda	Mr J M Nkomo
Mr E R Kadungure	Mr J W Msika
Dr H Ushewokunze	Mr T G Silundika
Mr D Mutumbuka	Mr W Musarurwa
Mr J Tungamirai	Mr A M Chambati
Mr E Zvobgo	Mr John Nkomo
Mr S Mubako	Mr L Baron
Mr W Kamba	Mr D N Madzimbamuto
Mr E Munangagwa	Miss E Siziba

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Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr F Zindoga
Mr G B Nyandoro
Rev N Sithole
Mr L Nyemba
Chief K Ndiweni
Mr Z M Bafanah
Mr D C Smith
Mr R Cronje
Mr C Andersen
Dr J Kamusikiri
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr D Zamchiya
Mr S V Mutambanengwe
Mr M A Adam
Mr P Claypole

Secretariat

Mr J M Willson

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The session began at 1134.

THE CHAIRMAN delivered a statement in response to the Patriotic Front's proposals (CC(79)66), subsequently circulated as Conference Paper CC(79)68.

MR NKOMO said that the real purpose of the Conference sessions was not just to set out formal replies, but to discuss matters and try to find methods by which some issues could be looked into by smaller groups. He said that no effort had been made to sit down to discuss and formulate what they considered to be answers to the various problems. It was no good just writing papers and saying they wanted this or that. Those present must get together to try to decide which way to go. He did not think present procedures could bring understanding. Some matters raised in his statement had been answered by the British Government, but not others, and he wondered whether the British disagreed or agreed with those they had not answered. The British had said that the existing police force would be impartial and the Patriotic Front considered that they would not. It seemed that the two sides did not have the same understanding of the term "impartial". He felt that what was needed was to look at the British paper and consider what would be the best way to move forward. He did not think that paper work across the table got to the root of the problems. There was a general understanding of the respective objectives of his and the British delegations; but it seemed that the British wanted to see peace during the interim period, whereas the Patriotic Front wanted to see peace. The British wanted

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a group of men to maintain law and order; his delegation wanted the same, but they did not necessarily mean the same thing when they said that the group should be impartial. They were not saying that all the members of such a group would be against the Patriotic Front, but they wanted to devise a scheme which would make people realise that a change had occurred.

The British side had said in their proposals that they had made provision for the change which must come and that the settling of misunderstanding must be by peaceful means. His delegation agreed with this, otherwise they would not have come to the Conference. Some method had to be devised of getting through to each other; merely exchanging papers was not the answer. His delegation would study the statement which had just been delivered by the Chairman.

THE CHAIRMAN said that the Conference had started off with plenary meetings; this had been criticised, and bilaterals had been suggested. When these were held, they in turn were criticised and plenaries advocated in their place. If delegations wanted some other means of carrying on the discussions he would be prepared to consider this. It was more difficult to reach decisions with large delegations than with small numbers; that was one of the reasons for bilateral meetings earlier. If those present wished for smaller groups, the Chairman thought that all parties should be involved in them at that stage of the proceedings. He suggested a further plenary meeting the following Monday and in the meantime suggested that the

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delegations reflect on the proposals for smaller meetings. He would be very willing to arrange for such meetings, if the Salisbury delegation were prepared to participate; it would be unfortunate to have bilateral meetings at that stage.

MR NKOMO said that he had not suggested that the Chairman had made a mistake over the form of meetings, as this reflected the requests of delegations. However it was necessary for each of the delegations to get to know what the others were thinking. If they had not wished to discuss matters with the Salisbury delegation they would not have come; both delegations were seeking decolonisation. However the present method of operating made it difficult for his delegation to find out what the Salisbury delegation wanted. If his delegation could let the Salisbury delegation see what the Patriotic Front's aims were they might be able to agree. His delegation would consider the Chairman's proposals, but he thought it essential to use both plenary and other types of meeting in order to arrive at an understanding. THE CHAIRMAN said that he did not wish to mislead those present into thinking that, because he had suggested smaller meetings, a decision was not urgent. If there were to be discussions in smaller groups these must lead to a decision; the Conference had gone on for a very long time. Endless delay could not be envisaged. MR NKOMO said that no one wanted endless delay, but they did not want a hurried agreement resulting in more people being killed.

REV SITHOLE said that there were certain issues which could profitably be looked into in a smaller group; this seemed

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a legitimate request. Whatever had been said in past meetings, new developments did arise which should be considered in a new light. Some problems were of bilateral interest and some of plenary interest, and should be dealt with accordingly. Not everything could be settled in large plenary sessions. A small group would allow people to go more deeply into the various problems faced by the Conference.

THE CHAIRMAN suggested that the Conference should reconvene on Monday morning, 12 November, having reflected on some of the points he had made; they could then discuss further how to proceed. He wished to emphasise once again that there was urgent need for a decision.

DR MUNDAWARARA pointed out that his delegation had already finished with that part of the Conference; they therefore had nothing to contribute to discussions. He reiterated what he had said before, that it might be helpful at that stage for the Chairman to hold bilateral meetings with the Patriotic Front delegation. THE CHAIRMAN said he understood Dr Mundawarara's point of view. He thought, however, that there was merit in some at least of the Salisbury team being present during any discussion in a smaller forum of points which gave the Patriotic Front delegation concern; Bishop Muzorewa's delegation could, for example, explain their difficulties in accepting certain Patriotic Front suggestions. Dr Mundawarara and his delegation might perhaps wish to discuss this proposal later. MR NKOMO said that the problem had arisen because the Salisbury delegation had accepted the British proposals. His own delegation had

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means of meeting some of the issues within the British proposals. It was essential that these be discussed. It was fitting, and indeed vital, that those who had agreed to the British proposals understood the Patriotic Front delegation's objectives.

THE CHAIRMAN summed up that both delegations had their points of view. He would leave it to the Salisbury delegation to decide whether they wished to be involved: he would not force them. He suggested that all reflect on what had been said that morning and resume on Monday 12 November.

MR NYANDORO recalled the long series of bilaterals and plenary sessions which had taken place. Further bilaterals might take several months to complete, and such delays were not acceptable. His delegation were in favour of discussion and explanation between the visiting delegations, but there had been no room for this. No black delegate could claim a monopoly of the struggle: all those present had fought for the liberation of their country. The March 3rd agreement and subsequent elections had changed the situation, removing Britain's rights over the country and bringing it to sovereign and independent status. His delegation were not present as if they were a rebel régime but as legitimate representatives, elected by the people of the country.

THE CHAIRMAN reiterated that he did not think he could, as Chairman, refuse a request for a bilateral meeting. He did not, however, envisage the discussions which had been suggested

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taking very long. He repeated that time was moving on to the point when decisions had to be taken in the very near future indeed. He knew that Mr Nkomo realised this. To enable decisions to be made very speedily, he as Chairman was prepared to accept a meeting with Mr Nkomo and delegation, with or without the Salisbury delegation.

The Conference was adjourned until 12 November, at a time to be arranged.

The session ended at 1215.

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CC(79)66
CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by
Mr Nkomo during the Twenty-Ninth Plenary
Session, is circulated to delegates at the
request of Mr Mugabe, Mr Nkomo and Delegation

Lancaster House
9 November 1979

PATRIOTIC FRONT

RESPONSE TO BRITISH GOVERNMENT'S DETAILED

PROPOSALS

FOR IMPLEMENTING THE INDEPENDENCE CONSTITUTION

I. Introduction.

- 1.1. At the conclusion of the discussions on the Independence Constitution we reserved our position on several aspects but agreed not to re-open discussion on them provided we were satisfied as to the transitional arrangements. The British proposals do not satisfy our essential requirements for the interim period.
- 1.2. All parties agree that the basic objectives of this conference are:-
- (a) the achievement of lasting peace in Zimbabwe and
 - (b) the achievement of independence on the basis of genuine majority rule.
- 1.3. The major function of the interim administration is to prepare for and conduct free and fair elections. We have stressed in our previous papers, as the British Government agrees, that the primary condition for free and fair elections is peace and security in the country. As we show below, the British proposals will not achieve peace and security, nor do they provide the machinery which will ensure that all parties can contest the elections on equal terms.

2. The Interim Administration.

2.1. The British proposal to govern through the existing institutions is partial and a negation of the principle of free and fair elections for the following reasons:-

- (a) the Governor will in reality be simply the titular head of the existing power structure, which remains in the hands of the regime; this favours the regime and prejudices the Patriotic Front;
- (b) the Patriotic Front has no channel for influencing the decision-making process, whereas the regime has the channel of the existing machinery of the Public Service; this is particularly prejudicial in the areas affecting the elections;
- (c) the fact that the existing institutions of power remain unchanged will have a serious intimidatory impact on the electorate prejudicial to the Patriotic Front.

2.2. Our proposal for a Governing Council composed of equal numbers from the Patriotic Front and the regime and with the Governor as Chairman has the following advantages:-

- (a) both parties will have direct contact with the whole administrative process leading to elections, and will therefore be able to satisfy themselves that the elections are free and fair;
- (b) executive and legislative action will be

taken after consultation between the Governor and both parties, and not, as under the British proposal, after consultation with only existing public officers.

The British assumption that the representatives of the parties serving on the Governing Council will be unable to work together has no basis, and is a contradiction of the principle of reconciliation which Britain has repeatedly advanced.

3. Elections

3.1. The Commonwealth Heads of Government said, in paragraph (g) of the Lusaka communique, that the government of Zimbabwe must be chosen through free and fair elections "properly supervised under British Government authority, and with Commonwealth observers."

3.2. We are satisfied that if the Heads of Government had intended the supervision to be by Britain alone they would have said so in those terms, which would have been simple and permitting of no other interpretation. By using the expression "under British Government authority" they clearly intended the participation of some other agency. Our proposals for an Electoral Commission and supervision by an international agency fall squarely within the Lusaka communique.

3.3 In their final paper the British government states that the role of the Commonwealth observers will be "to observe that the elections are genuinely free and fair" and that "no restrictions will be placed upon their movements, and every effort will be made to facilitate their task". We understand this to mean that the observers will participate fully in the whole electoral process. This is the position we have consistently maintained.

3.4. Britain criticises our proposal for an Electoral Commission on the grounds that there cannot be two parallel bodies performing the same functions. We have not proposed parallel bodies; on the contrary, the British proposal for an Election Commissioner and a separate Election Council creates two bodies to perform the functions which would be performed by our Electoral Commission, under British authority.

3.5. The British proposal for an Election Commissioner suffers from the same fundamental defect as the whole British approach to the interim administration; since he has to rely on the existing Public Service to the exclusion of the Patriotic Front the Election Commissioner's administration of the electoral process cannot be impartial.

3.6. Our proposal for an Electoral Commission has the following advantages:-

- (a) it ensures direct contact by both parties with the electoral process, thereby ensuring

impartiality;

- (b) it would reduce administrative difficulties in such areas as the provision of interpreters.

3.7.1. We maintain that a proper registration of voters is absolutely essential. Without a proper registration of voters elections cannot be free and fair; there would be endless opportunity for fraud, such as:-

- (a) voting by non-residents, such as tourists and people coming from across the borders;
- (b) voting by people under age;
- (c) voting more than once;
- (d) fraudulent voting cards, i.e. the introduction into ballot boxes of voting cards completed fraudulently in advance;
- (e) if the party list system is used on a district basis, voting in a district other than that of one's residence.

3.7.2. There is another serious consequence of non-registration if the party list system is used on a district basis. Without registration it will be impossible to determine the voting population with any degree of accuracy for the purpose of apportioning seats in respect of each district.

3.7.3. We do not accept Britain's assertion that registration would take a very long time. The time would depend entirely on the size of the staff; with an adequate staff registration could be completed comfortably in three months. In Zambia prior to

independence, voters were registered at the rate of 700 per day per constituency; this rate would enable 3,000,000 voters to be registered in Zimbabwe in sixty working days.

3.7.4. We stress that a register of voters is essential whether the elections are conducted on a constituency or a party list basis. We would have no objection to the party list system provided (a) there is proper registration of voters, and (b) the same system is used for the election for the reserved white seats.

4. Security Arrangements

4.1 Peace and security are vital to free and fair elections. The British proposals do not provide security and will not achieve peace, because:

- (a) The people cannot feel secure when the only forces maintaining law and order are those of the regime;
- (b) a cease-fire cannot possibly hold without an international peace-keeping force.

4.2 Our position is that there should be a Transitional Police Committee, composed of representatives of the Patriotic Front and the regime whose principal functions will be to supervise the maintenance of public order, to provide liaison between the civil administration and an international police force, and to commence the process of building the new Zimbabwe Police Force. The international force will be combined with Patriotic Front and Rhodesian elements, under British authority.

4.3 Immediately on the coming into force of the Transitional Order in Council martial law and the state of emergency must be brought to an end. The British Government has remained silent on the question of the state of emergency.

4.5 The constant reference by the British to a cease-fire and the responsibilities of the parties in relation there, to reveal an understanding of a cease-fire to which we cannot subscribe. We understand by a cease-fire that the parties maintain their positions and stop shooting; the British proposals entail policing by the regime's police, which is para-military force, of areas occupied by us. This is unacceptable. The only solution is an international police force, combined with Patriotic Front and Rhodesian elements, to maintain law and order over the whole country.

5. Length of Interim Period

5.1 The British proposal to limit the election period to two months is totally unacceptable. We are on record as saying that the whole interim period must not be unduly long. However, it must not be so short as to negate the principle of free and fair elections. The length of the period must not be fixed arbitrarily, but

it must allow the completion of the necessary processes preparatory to an election and must give both delegations a fair chance to get back to the country, organise themselves for elections and to explain their policies to the electorate.

5.2 In paragraph 10, the British document makes the startling suggestion that a cease-fire can hold for two months but not for six months. This argument is totally unfounded. The effectiveness of the cease-fire depends on the agreement, the will to observe it, and the adequacy of the machinery for policing it. Military experience suggests that it is in fact more difficult to maintain a cease-fire in the first two to three months rather than in later periods.

5.3 The periods which the British delegation proposes have the effect of:

- (a) putting the Patriotic Front at an electoral disadvantage and
- (b) enabling the British Government to wash their hands of the Rhodesian problem quickly and to get out before a predictable civil war has flared up.

The Patriotic Front, is at present banned; we have to get back into the country, assist in the return of refugees, set up an electoral machinery and compete for the support of the electorate. It is plain that the British proposal that all this should be done in two months is highly prejudicial to the Patriotic Front and is intended to favour the Salisbury regime.

6. The process of decolonisation envisaged by this conference will require two Orders-in-Council i.e. the Interim Order-in-Council providing for the Interim Constitutional Arrangements and the Transitional Order-in-Council introducing the Independence Constitution. The provisions of both orders are of crucial importance and must be agreed on at this conference.

7. The British delegation constantly refers to the Salisbury delegation having made "considerable sacrifices" by agreeing to hand over executive and legislative power to the Governor. We must remind the British government that the Salisbury delegation are members of an illegal regime, and that the fact that many of them had nothing to do with UDI in November 1965 does not save them; they chose to join the rebellion, and are now as much a part of it as any of the original perpetrators. One of the objects of this conference is to end the illegality. It is outrageous for the British government, which has always regarded the regime as illegal and which says that it does not recognise it, now to commend them for agreeing to relinquish the spoils of their illegal conduct.

One of the objects of this conference is to end the illegality. It is outrageous for the British Government, which has always regarded the regime as illegal and which says that it does not recognise it, now to commend them for agreeing to relinquish the spoils of their illegal conduct.

8. We draw attention to the agenda, drawn by the British delegation and agreed by the conference. It contains only two items, the Independence Constitution and the Pre-Independence Arrangements. It was agreed also that agreement on the former was contingent on agreement on the latter, which includes the cease-fire. The British Government cannot now demand that there be agreement piecemeal on individual items falling under the heading of Pre-Independence Arrangements before passing on to other items.

9. There is clearly a gap between our position and that of the British government as to the essential requirements of the interim arrangements. A determined effort must be made by all parties to bridge that gap; it will not be bridged by pressure tactics or by issuing ultimata.
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CC(79)65

CONFERENCE PAPER

COPY NO: 89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered
by Mr Mugabe during the Twenty-Ninth
Plenary Session, is circulated to
delegates at the request of Mr Mugabe,
Mr Nkomo and Delegation

Lancaster House
9 November 1979

THE PATRIOTIC FRONT

STATEMENT ON THE IMPLICATIONS OF THE BRITISH GOVERNMENT'S INTRODUCTION OF THE SOUTHERN RHODESIA BILL 1979 IN THE BRITISH PARLIAMENT.

It was agreed at the outset of the Lancaster House Conference that no final settlement would be regarded as concluded unless and until all issues and matters before the Conference had been fully discussed and agreed upon.

The action of the British Government in introducing the Southern Rhodesia Bill 1979, in Parliament on the 8th November, in the middle of the crucial Lancaster House Negotiations is in breach of this undertaking.

The British Government say that they propose to appoint a governor under clause 3 of the Bill who "will have political, military, police and legal advisers and subordinate staff as well as an Election Commissioner with a team of officials to enable the governor to carry-out the function of supervising the election."

These are all matters which are at issue before the Lancaster House Conference and on which there has yet been no final agreement. We conclude that this is an attempt by Lord Carrington to substitute his own Parliament for the Conference. The consequence of this deplorable approach is to undermine and wreck the conference.

The Patriotic Front notes with surprise and alarm that one of the purposes of this enabling Bill is to enable the British Government to unilaterally breach International sanctions against the rebel colony on November 15th, 1979.

This is a breach of the undertaking which the British Government gave to the Commonwealth Conference at Lusaka, namely, that they would not lift sanctions until a settlement, involving all parties, had been concluded.

It is also a breach of the undertaking which Lord Carrington gave to the Lancaster House Conference to wit, that the sanctions would only be lifted after a settlement involving all parties had been concluded and a governor had been appointed and arrived in Salisbury.

This undertaking was made in reply to Bishop Muzorewa's question (see C.C (79) 37, copy number 21 of the Lancaster House Conference - 16th Plenary session

dated 25th October, 1979 at page 4). Lord Carrington said:-

"Finally, Bishop Muzorewa asked when sanctions would be lifted. The British Government will lift sanctions as soon as there is a return to legality in Rhodesia. Our aim is to reach agreement in this conference which will allow this to happen as soon as possible."

To lift sanctions on the 15th November is to betray these assurances.

The wide and unlimited powers which the British Government seeks to acquire under the enabling bill is sufficiently indicative of the fact that the British Government is now on a course of concluding a bilateral agreement with Bishop Muzorewa in order to impose that regime on the people of Zimbabwe.

Resorting to the tactics of taking decisions alone on issues before the conference and announcing them, confirms our long standing observation that the British Government never had any intentions to negotiate at this conference save to use it as a platform to announce its policies and to defy international opinion on the question of Southern Rhodesia.

We call upon the British Government to come back to the Conference table and negotiate a peaceful settlement for our embattled country.

9th November, 1979

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CC(79)64

COPY NO:

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TWENTY-NINTH PLENARY SESSION

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

Summary of the proceedings of the
Twenty-Ninth Plenary Session of the
Conference, Friday 9 November 1979

Lancaster House
9 November 1979

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PRESENT:

UK Delegation

Lord Carrington (in the Chair)

Mr R Luce

Sir M Palliser

Sir N Henderson

Sir L Allinson

Mr D M Day

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr P J Barlow

Mr R D Wilkinson

Mr R M J Lyne

Mr S J Gomersall

Mrs A J Phillips

Mr M C Wood

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Bishop Muzorewa and Delegation

Dr S C Mundawarara
Mr F Zindoga
Mr D C Mukome
Mr G B Nyandoro
Mr L Nyemba
Chief K Ndiweni
Mr Z M Bafanah
Mr I D Smith
Mr D C Smith
Mr R Cronje
Mr C Andersen
Mr G Pincus
Mr L G Smith
Air Vice Marshal H Hawkins
Mr D Zamchiya
Mr S V Mutambanengwe
Mr M A Adam
Mr I P Claypole

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Mr Mugabe, Mr Nkomo and Delegation

Mr J M Nkomo

Mr J W Msika

Mr A M Chambati

Mr John Nkomo

Mr S K Sibanda

Mr W Musarurwa

Mr S Mehta

Miss E Siziba

Mr R G Mugabe

Mr S V Muzenda

Mr J M Tongogara

Dr H Ushewokunze

Mr D Mutumbuka

Mr J Tungamirai

Mr E Zvobgo

Mr S Mubako

Secretariat

Mr J M Willson

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The session commenced at 1635.

MR MUGABE said that he understood that the Chairman had said that the Patriotic Front's absence from the meeting the previous day was discourteous. His delegation had in fact requested a postponement because of a prior engagement with President Kaunda; this request should have been brought to the Chairman's attention. In the circumstances he considered the Chairman's statement to have been unfair.

Mr Mugabe then announced that his delegation would deliver two statements, the first concerning the British Government's Southern Rhodesia Bill, a matter of great concern to his delegation; and the second a reply to the British Government's detailed document on transitional arrangements (CC(79)56).

Mr Mugabe then delivered the first statement, subsequently circulated as Conference Paper CC(79)65.

Mr Mugabe added that the British Government were using his delegation's attendance at the Conference as a platform to persuade international opinion to believe that this Bill was being introduced with the concurrence, implied or explicit, of delegations at the Conference. This was not the case. The Patriotic Front delegation took exception to this use of the Conference in order to enhance the British Government's original objectives, prior to the Commonwealth Conference, of securing recognition of the rebel regime.

/MR NKOMO

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MR NKOMO recalled that his delegation had promised to study the British Government's detailed proposals (CC(79)56) and to react. They would have done so the previous day but, for the reasons given by Mr Mugabe, this had not been possible - not because they had not wanted to do so, as implied in several news statements.

Mr Nkomo then delivered the second statement, subsequently circulated as Conference Paper CC(79)66.

In delivering the statement, Mr Nkomo:

- (a) commented at the end of paragraph 1.2.(a):

"Lasting peace means peace before, during and after elections";
- (b) said at the beginning of paragraph 2.1.(a):

"the Governor will in fact rely on the existing power structure";
- (c) substituted the following for the fourth line from the top of page 3:

"only with the top officials in the existing public service. Under our proposals these top officials would be replaced.";
- (d) between the second and third sentence of paragraph 4.5, said:

"the forces presently locked in combat in Rhodesia must be accorded equal status during the interim period. The British proposals accord legality to the regime's military and police forces and denies it to our forces";

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- (e) substituted "quickly, leaving behind them chaos" for the last 8 words of paragraph 5.3(b);
- (f) substituted "campaign for election" for the last 7 words of the first sentence on page 9. He added at the end of paragraph 5:
"if not so, we shall be told. Our period of six months was chosen after careful consideration and taking into account the time required for the completion of all the essential processes and the need to be fair to all parties.";
- (g) added the following sentence at the conclusion of the statement:
"it can only be bridged by looking at the issues and discussing them in order to find a solution; that is what we are here for".

THE CHAIRMAN said that he was sorry at the tone which had been used by Mr Mugabe, and the implications of what had been said. He was astonished that it had been suggested that the British Government had not been negotiating in good faith, and he did not think that any objective observer would support that accusation. It remained the determination of the British Government to achieve a settlement which was just and which would lead to free and fair elections.

By way of rejoinder to Mr Mugabe's statement, the Chairman referred to Conference Paper CC(79)56 of 2 November, which stated in paragraph 22 that "The authority of the United Kingdom Parliament will be

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sought for the appointment of the Governor, the making of the Independence Constitution and the holding of elections under it. Legislation will be submitted to Parliament as a matter of urgency so that the Governor may, without loss of time after his arrival, take the steps necessary to allow the elections to be held." In presenting their Enabling Bill to Parliament the British Government had done precisely that and the Chairman said that he did not understand why Mr Mugabe should seek to establish a connection between an Enabling Bill and the proceedings at that stage in the Conference. Its purpose was to enable provision to be made for the Independence Constitution for Zimbabwe as well as for the holding of elections in which all parties would be able to participate; and for the government of the country in the period prior to independence. That would enable the British to put a settlement into effect as soon as it had been reached. Such a Bill did not prejudge or pre-empt any conclusions reached by the Conference. It merely put the British Government in a position to implement those conclusions as quickly as possible. With regard to sanctions, the generality of sanctions would remain in force until there was a return to legality with the arrival of a Governor in Salisbury and acceptance of his authority. Section 2 of the 1965 Act would not be renewed, but this would only affect a small proportion of sanctions.

The Chairman said he had no immediate comment on Mr Nkomo's statement. At first sight, however, it did not appear to

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advance the situation very far, and was, broadly speaking, a restatement of what had been discussed during the past three weeks. He would give a considered reply to the Patriotic Front's statements the following day at 11.30, if that time was convenient. He asked whether the Salisbury delegation had any comments to make.

DR MUNDAWARARA said that anything he said would merely be a repetition of what had already been said. He wondered whether the stage had now been reached at which bilateral meetings would be of some assistance.

THE CHAIRMAN said that it had been necessary to go over and over a number/^{of}points and discuss them. With regard to bilateral meetings, he was in the hands of the Conference but he understood that the Patriotic Front preferred plenary meetings. If one delegation wanted to have a bilateral meeting with the British delegation, that request had been granted. If one side preferred plenary sessions, however, he did not think the other side should opt out.

MR MUGABE said that he would not dismiss the possibility of bilateral meetings at some stage but the main mode of operation should be through plenary sessions. THE CHAIRMAN agreed with him.

MR MUGABE said that the Chairman had stated the British position on the Enabling Bill; he accepted that such a Bill was an urgent matter but not at this stage. It would only become urgent after agreement had been reached. The British appeared to want to have it ready before agreement. It also appeared

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that the British had made a misleading statement that agreement was about to be reached. That was not the case; the Patriotic Front had only just given their reply to the British paper. There had been no real negotiation; at every stage the British had said that the Patriotic Front should either accept or reject the British proposals. His delegation were here to negotiate and to reason, not just to say yes.

THE CHAIRMAN said that an Enabling Bill was to enable someone to do something; it was for the British Government to decide how to run their own legislation in this respect. With regard to timing, there had been negotiations on the transitional arrangements for a very long time and the time was coming when a decision had to be taken. He would answer the points in the Patriotic Front's paper (CC(79)66) the following day, and hoped that after that they would be able to come to a conclusion. MR MUGABE asked what the Chairman meant when he said that the time was coming when a decision had to be taken. THE CHAIRMAN said that the British would answer his questions the following day and if he had more questions they would be answered, but there could not be an indefinite period in which all present were saying the same things again and again. The Salisbury delegation had accepted the British Government's proposals and there could not be indefinite negotiation and no decision once one side had agreed.

MR MUGABE said that the British had obviously negotiated with the Salisbury delegation before the Conference and had

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presented the Patriotic Front with a ready-made product to accept or reject. What the British were suggesting was that those proposals which the Salisbury delegation had accepted, the Patriotic Front must also accept.

THE CHAIRMAN said that the British had proposed arrangements for the transitional period some time ago; some of these proposals, which were not pre-arranged, had been difficult for the Salisbury delegation, as some had been for the Patriotic Front delegation. The Salisbury delegation had now accepted them.

MR NKOMO said that he did not consider the Chairman's attitude to be helpful. The British appeared to be saying that what they had proposed and the other delegation had accepted, ~~the~~ the Patriotic Front had to accept. The British proposals had been accepted without discussion by the Salisbury delegation. The British had had a man in Salisbury for two to three months. The British did not have a man in the Patriotic Front camps - they would not have accepted him in any case. Now the British confronted the Patriotic Front with an agreed document, but the Patriotic Front had come to discuss and work out an arrangement which would bring peace to their country. The British proposals would not bring peace. With regard to the Enabling Bill, the British Government had listed some of the functions of a Governor although agreement had not been reached on his functions at the Conference. What was set out in the Enabling Bill was not necessarily what was going to happen. The British appeared to have made up their minds, and his delegation could not accept that situation.

/THE CHAIRMAN

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THE CHAIRMAN said that an Enabling Bill was what it said it was, and an Order in Council could do what was set out in the Enabling Bill or anything less than that, and would have regard to any conclusions arrived at by the Conference. At the first reading of the Patriotic Front's paper he thought the arguments sounded familiar but if there were any new ideas contained in it the British would look very carefully at them and discuss them the following morning.

The session ended at 1730.

CC(79)63
CONFERENCE PAPER

COPY NO:

89

CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON

The attached statement, delivered by
the Chairman during the Twenty-Eighth
Plenary Session, is circulated to delegates
at his request.

Lancaster House
7 November 1979

LORD CARRINGTON:

I understand from Sir Ian Gilmour that at yesterday's session the Patriotic Front took the view that the British delegation had not replied to the questions put by Mr Mugabe on 5 November on the nature of the institutions of government at the moment of transition to independence. Sir Ian's statement has now been circulated to you, and seems to me to set out the British Government's views very clearly.

The British Government does not regard the interim period as the appropriate time for decisions on changes in the structure and personnel of the existing institutions of Government. What happens after independence is for the Government elected by the people of Rhodesia to decide.

The Independence Constitution, which we have agreed in this Conference, subject to satisfactory interim arrangements, allows an elected government to make changes, in accordance with the Constitution in the institutions and in their personnel.

First, as regards the public service: under regulations at present in force and which will be continued after independence, it is possible to remove members of the public service on various grounds, including the public interest. The Patriotic Front have suggested that there might be cases of obstruction of the government's policies by members of the civil service. If this were the case, existing regulations which would remain in force at independence, provide appropriate remedies.

Second, as regards the Army and Police, specific provision is made in the Independence Constitution for the President acting on the advice of the Prime Minister in relation to the appointment of the Commissioner of Police and the Commanders of the Defence Forces.

/It