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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.

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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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