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CC(79) 8
SECOND PLENARY SESSION

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CONSTITUTIONAL CONFERENCE
LANCASTER HOUSE
LONDON
SEPTEMBER 1979

Summary of proceedings of the Second Plenary
Session of the Conference, Wednesday 12 September

Lancaster House
12 September 1979

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Present:

UK Delegation

Lord Carrington (in the chair)

Sir I Gilmour Bt

Mr R Luce

Sir A Duff

Mr D M Day

Mr R A C Byatt

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 R M J Lyne

Mr M J Richardson

Mr Mugabe, Mr Nkomo and Delegation

Mr J M Nkomo	Mr R G Mugabe
Mr J M Chinamano	Mr S V Muzenda
Mr J W Msika	Mr E Z Tekere
Mr T G Silundika	Mr J M Tongogara
Mr A M Chambati	Mr E R Kadungure
Mr J Nkomo	Mr H Ushewokunze
Mr L Baron	Mr E Zvobgo
Mr S K Sibanda	Mr S Mubako
Miss T Siziba	Mr W Kamba

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

Rev N Sithole

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 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 1510 hours.

THE CHAIRMAN said that the agenda which he had circulated (Conference Paper (CC(79) 5) took care of the points raised by Mr Mugabe and Mr Nkomo during the morning session. It envisaged discussion of the subjects listed but did not exclude others which might be raised additionally. The agenda thus met the British obligation to discuss all relevant matters. The Chairman said that a long time had been spent on procedural questions, and that the Conference should now get down to business.

BISHOP MUZOREWA said that the purpose of the Conference was to discuss the Constitution. He was therefore prepared to accept Item 1 on the agenda. Whilst he could not prevent the Chair from placing any additional items on the agenda, he did not at this stage accept the additional Item 2, and therefore reserved his position in this regard. Bishop Muzorewa concluded by proposing discussion of the Constitution.

MR MUGABE said that his delegation's agenda, circulated during the morning session (Conference Paper CC(79)4) had taken into account the British desire to discuss the Constitution. It had proposed an order of discussion which, in his view, would expedite the conduct of Conference business. The Chairman had not done full justice to his Delegation's suggestions and had not taken fully into account the various subjects detailed in their proposed agenda. It was necessary to specify subjects. The order was not of primary significance, and it would be possible to begin by

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discussing the Independence Constitution and then move on to the other issues. There was in the Chairman's agenda, however, an obvious omission of the proposed subheadings in his Delegation's agenda. His delegation envisaged transitional arrangements which would make progress towards independence clear and irreversible. That was why their agenda went into some detail. The agenda to be accepted by the Conference could include subjects not covered by his delegation's draft agenda.

He was surprised that the other side had apparently changed posture and now rejected discussion of the transitional arrangements. The achievement of peace depended on the conclusion of a satisfactory agreement on these matters. There could not be a cease-fire without satisfactory arrangements concerning the army, the police, the public service and the judiciary.

In conclusion he said that he hoped the re-arrangement of the agenda proposed by the British side did not indicate a wish to avoid the clearest possible discussion of the transitional arrangements. An effective Constitution would not be possible unless there was a guarantee that the progress towards independence was irreversible. The forces which had been used since 1965 to maintain illegality must be put under firm control. A settlement could be obtained only by discussing both the Independence Constitution and the transitional Constitution. MR MUGABE wanted real peace, not the sort of peace produced in April this year.

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/MR NKOMO

MR NKOMO said that the Conference should not avoid discussing those issues which would bring real peace to his country.

THE CHAIRMAN noted Bishop Muzorewa's point, but said that if a successful conclusion on the Constitution were reached, it followed that pre-Independence arrangements would have to be discussed. In response to Mr Mugabe, the Chairman said the British Government had no intention of evading discussion of the necessary issues. Anything which either side wished to raise would be discussed at the proper time. Mr Mugabe's comments on Item 2 of the agenda circulated by the UK Delegation seemed to him, however, to be substantive proposals and not suggestions for inclusion in an agenda. There would be many proposals, and it would be wrong to include them as part of the order of business. The Chairman said that he had come a long way to meet the requirements of the Patriotic Front, and, as Chairman of the Conference, would give an undertaking that the proposed headings would not exclude discussion of other subjects.

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What he now proposed was the "lowest common denominator" of disagreement. He very much hoped that, although neither of the visiting delegations was entirely satisfied with the proposed agenda, the conference could now proceed to discussion of the Constitution.

MR NKOMO said that while items 1 and 2 a. and b. of the Chairman's agenda were clear, item 2 c. was not. It could mean anything. The Patriotic Front did not wish to find itself in a situation where, having agreed on the terms of a Constitution, the British Government then dictated the kind of administrative arrangements which would be put into effect during the pre-independence phase.

THE CHAIRMAN said that the agenda simply set out points for discussion. It was not an attempt to lay down the law. He thought that his draft had gone as far as was possible to meet the Patriotic Front's wishes; item 2 specifically said "including" a, b and c, so that anyone was free to bring up other items. He appealed to the delegations to allow the conference to proceed.

MR MUGABE then asked whether the Patriotic Front could assume that under item 2 c. of the agenda circulated by the Chairman all the items contained in points 1 and 2

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of the agenda previously circulated by his and Mr Nkomo's delegation could be discussed.

THE CHAIRMAN agreed that this was indeed the case.

He next suggested that the conference should examine the outline proposals of the British Government in order to determine on which principles the sides could agree and those on which only qualified agreement could be given. This would serve as a useful preliminary to more detailed discussion.

As delegations were already aware, the outline proposals contained provision for a "constitutional" Head of State. This was a normal provision of previous independence constitutions and it had the merit of allowing the formal duties of the office to be performed by a non-political figure. It was for this reason that he thought such a provision was useful. He recognised that alternatives were possible, and he would welcome the views of other delegations on this.

Turning to the legislature, the Chairman said that there was provision for a bi-cameral legislature. This again was a feature of previous independence constitutions. The outline proposals suggested that the Senate should have no provision to block legislation passed by the

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lower House, but it was the British experience that a second chamber was a useful complement to the directly-elected House, particularly for the discussion of more technical issues. However, if the conference were to prefer a uni-cameral system, the British Government would respect that preference.

Although recognising that the next issue might present difficulties for some of those present, the British Government believed that it was reasonable to provide, as a temporary measure, for a minority of seats in the lower House to be reserved for representatives to be elected by the white community. The particular history and circumstances of the country required, in the British Government's judgment, such a provision. The proportion of such seats was obviously a question for discussion, but the British proposal concerned representation, not a blocking mechanism.

Continuing, the Chairman said that the provision for the regulation of public services was a common feature of independence Constitutions granted by Britain; indeed it was an indispensable feature of any administration. Such provisions, he added, must however provide for the legitimate claims, at all levels, of the majority of the population. He also believed that a democratically

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elected government, through its Chief Executive, should have power to make certain senior appointments itself in order to ensure the effective implementation of its policies.

The British Government believed that these principles could form the basis for a genuinely democratic independence Constitution, which they could confidently put to Parliament. The Chairman then asked the other delegations whether these proposals were acceptable in outline.

BISHOP MUZOREWA asked whether there were further principles to be enunciated or whether the Chairman now proposed to provide more details of the outline principles already circulated.

THE CHAIRMAN said that the outline proposals contained all the principles, but that he would be circulating later in the afternoon a document containing further details in respect of these principles which delegates might wish to consider overnight.

BISHOP MUZOREWA said that his delegation would like to consider both the outline and the detailed proposals before commenting further. MR MUGABE said that the Patriotic Front would also like to examine the detailed

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proposals before they gave their views. THE CHAIRMAN agreed to circulate the more detailed proposals so that delegations could consider them overnight and give their views at the session beginning at 1030 on the following day.

The session then adjourned at 1545.

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