

**DRAFT SUMMARY RECORD OF OPENING PLENARY SESSION -
MONDAY 16 SEPTEMBER 1996 (10.12)**

Those present:

Independent Chairmen	Government Teams	Parties
Mr Holkeri	British Government	Alliance Party
General de Chastelain	Irish Government	Northern Ireland Women's Coalition
		Progressive Unionist Party
		Social Democratic and Labour Party
		Ulster Democratic Party
		Ulster Democratic Unionist Party
		United Kingdom Unionist Party
		Ulster Unionist Party

1. The Chairman (Mr Holkeri) convened the meeting at 10.12 having observed the 10 minute waiting period for delegates to take their seats. All delegates were represented with the exception of Labour.

2. The Chairman recalled last weeks proceedings which had dealt with the DUP allegations of a breach of the Mitchell Principles by the UDP/PUP. The decision from the Governments was final on that matter, but it had then been agreed that participants who wished to comment on the decision could do so this morning for a maximum of two hours. The Chairman asked for these comments to be given now.

3. Before presenting comments, the UKUP enquired from the Chairman as to the likely format of the Plenary session minutes, given the detail which the British Government's internal minutes appeared to provide. The Chairman indicated that he was following a similar procedure to that which pertained in the 91/92 talks,

but that he would consult with the notetakers before responding to the specific question. The UKUP returned to the point stating that it was vital to have an accurate, verbatim note of the proceedings which took place on 9 and 10 September as High Court proceedings might yet be pursued. The UKUP restated its view that it took exception to the style and content of the British Government's questioning of the two loyalist parties during the proceedings on 10 September. The questioning was improper and a detailed note of the business was therefore required. The UKUP also recalled that during the same proceedings the PUP had, in its view, indicated justification for the issue of a death threat on the basis that it had probably saved lives. A parallel had also been drawn at the time by the PUP when it had referred to the view that if a similar threat had been issued to IRA dissidents in Munster it might possibly have stopped the IRA bomb at Canary Wharf. All these statements needed to be clearly and accurately set out in a detailed note prepared by the notetakers.

4. The UUP quoted rules 43 and 44 in reference to the provision of draft records of proceedings and the fact that the notetakers prepared their record under the guidance of the chair. The UUP stated that participants should now have, under the rules, draft records of all Plenary meetings to date. The Chairman acknowledged the UUP point but indicated that the draft records of proceedings would not be produced in the format suggested by the UKUP. The UKUP inquired as to whether this ruling meant the British Government's questions of the previous week would not now appear as no verbatim record was being produced. The NIWC said that it thought the talks process to be confidential. Was it now the case that any issue discussed in the proceedings could be taken out of the conference room and used publicly as a statement? The Chairman stated that confidentiality should be observed but

the question of draft records from the previous week would have to await an opportunity for him to study these first.

5. The UUP sought clarification as to the overall timing of events for the day. The Chairman stated that responses to the Alliance allegations were to be submitted by 14.00. All documents would then be circulated to the participants and after that the next Plenary meeting would take place subject to the call of the chair. An accurate view on timing was not therefore possible. The Chairman then asked for comments on the Governments' decision of the previous week.

6. The UUP stated that it wished to raise a couple of issues. In essence, the situation which brought the whole matter to a head had yet to be fully resolved. It had been resolved to some degree in the talks proceedings but not externally. The death threats remained. The UUP said that they had urged people to involve themselves and to mediate in a series of negotiations aimed at having the threats withdrawn. The UUP wished this process every success. The reality of the situation was, however, that the death threats remained and there was also a sense of recent events in the wider community leading to a greater escalation of the present tension. The UUP stated that the Governments' decision, subject to any judicial review, answered one aspect of the matter but the main point remained; the death threats had not been rescinded. The level of tension was surely bound to rise if these threats continued to exist. The UUP said it didn't want anyone removed from the process but it did want the threats removed and asked that those involved in the negotiations attempt to resolve the problem to everyone's satisfaction. Continuing, the UUP said that the Governments' decision was totally inadequate and would not find any support from the party. In reference to para (d) of

the Mitchell Principles which states "to renounce for themselves, and to oppose any effort by others, to use force, or threats to use force, to influence the course or outcome of all party negotiations" such a statement had not been forthcoming from the two loyalist parties involved.

7. The DUP stated that it was entirely regrettable that the Governments had chosen not to elaborate on their decision. The decision have all the hallmarks of political expediency. There were no other reasons contained in the response which allowed others to believe it had been based on anything different. It was shabby and dishonest reasoning and it had set aside the Governments' previous principles and commitments on issues such as the Mitchell Principles. The DUP recalled that at the beginning of the process the Mitchell Principles and their importance were such that if a party didn't sign up to them then it was excluded from the process. Now it appeared that the Principles themselves were fine and laudable but there was nothing of substance available when it came to enforcing them. The DUP stated that it firmly believed the Government was determined to have certain people at the conference table; the election in May was organised to achieve this and mechanisms such as the top-up system were further proof of this objection. Of course, in the case of parties which had close connections to paramilitary groups, the Government view then was that to enable the party to come into talks, its paramilitary organisation had to declare a cease-fire, which along with the electoral mandate, permitted inclusion in the process. The important point here, according to the DUP, was that the actions of paramilitary groups had a direct effect on their political associates at the talks. The DUP's case against the UDP/PUP was that this logic had to apply when dealing with breaches of the Mitchell Principles as was highlighted by the

party's comments when presenting its case the previous week. The actions of the CLMC had, in whatever way one wished to categorise them, breached either Mitchell Principle (a), (d) or (f) and therefore, the associated parties at the talks had to bear the responsibility for that breach.

8. The DUP continued, saying that the Government appeared now to have jettisoned this argument. In other words it didn't matter about death threats being issued by the CLMC, the Government now regarded the political parties as separate from the paramilitary organisation. The DUP said that this was often the argument used by Sinn Fein in distancing themselves, whenever necessary, from the actions of the IRA. Now it appeared that the Government was using the same logic as Sinn Fein to rule against the DUP allegations. The DUP stated that one could almost hear the logic of Sinn Fein being brought into the talks without a cease-fire being called. Sinn Fein could adopt exactly the same arguments as those put forward by the PUP/UDP when contesting any allegations that the Mitchell Principles had been breached. If Sinn Fein entered the process, and deployed these arguments, as used by the UDP/PUP, their signing up to the Mitchell Principles without proper enforcement rendered the process meaningless and the Principles irrelevant. The DUP returned to an earlier point in viewing the Governments' formulation of their response as appearing to allow political groups to say or do one thing, irrespective of what their associate paramilitary group was doing. There was therefore clear relevance of this decision to the entry of Sinn Fein to the process.

9. The Governments' response, according to the DUP, also showed up the hollowness of their own words in terms of their views of non-condemnation. The use of the excuse that condemning actions

"reduced the influence" of the political group over its paramilitary associates was not an argument for the Governments to present. It was therefore of no great surprise to the DUP that the Governments didn't wish to explain their reasoning further.

10. The DUP stated that the reality of the Governments' decision was that Sinn Fein was now easier got into the process - never mind what the IRA did or didn't do. This was the precise reason why the DUP raised the allegations against the PUP/UDP in the first place, because the decision amounted to Sinn Fein receiving a helping hand when the loyalist parties remained at the table, yet the death threats still remained. The DUP said that the Governments' paper showed how right they (the DUP) were in this analysis of the Sinn Fein position and hoped now that the Governments might take the opportunity of explaining why they chose not to enforce the Mitchell Principles but instead to ignore them.

11. The UDP said that it had submitted a short paper in response to the allegations made by the Alliance Party. Its opinion in relation to the arguments made about the Governments' decision setting a precedent in relation to Sinn Fein/IRA was that the conditions for Sinn Fein's entry into the talks process were clear. They involved the establishment of a cease-fire and the DUP were misleading people on the issue to suggest otherwise.

12. The DUP agreed with the UUP and said it was glad to have a mediation process underway to have the death threat withdrawn. It was also necessary to consider that the Governments' document was not remotely close to a legal or quasi-legal ruling. It was a shabby and pathetic decision based on political expediency. The Governments' deliberately avoided responding to two specific

questions posed by the DUP. The first was - is the CLMC death threat a breach of the Mitchell Principles? The second was - are the two parties involved punishable for the actions of the CLMC? An alternative answer to the first would require more from the Governments than the threadbare ruling given in the document. A similar answer to the second question would mean that the parties concerned were responsible for the death threat and anything that might happen in the future as a consequence of it. When the DUP wrote to the Secretary of State, his reply did not contain any condemnatory words in relation to that threat. Neither did the British Government's Press Release on the matter. Both of the parties involved had actually moved further on this than the Governments. The Security Minister had said that the death threat was totally unacceptable but there was no condemnation or recrimination by him on the issue. The implications and the message flowing from that were that perhaps the NIO was not too sorry to see certain people facing death threats. The DUP said that the apparent unwillingness on the part of the Governments to condemn was illustrated by their failure to take up the matter in response to the DUP's indictment. It said that the Governments had shown they were prepared to overlook the actions of the CLMC and that this was inexplicable. Their response was not a legal response but an exercise in political judgement.

13. The DUP continued in this vein and said that shortly after one of the persons named in the death threat (Mr Kerr) had left Belfast, there was an attempt on his life. The RUC had arrested an armed person in connection with the incident. His excuse was that he was acting under duress and his mission was merely to frighten or intimidate Mr Kerr. Apparently, the authorities had decided not to bring charges. Again, the DUP felt that the message was clear in such circumstances; i.e. that the Governments

were not too concerned about the matter. The DUP said that the British Government should reconsider its silence in refusing to justify its stance on the issue of failing to condemn those who issued death threats and in failing to say that that matter would be pursued by the authorities.

14. The UKUP said that much of the ground that it had intended to cover had already been covered by the DUP. It endorsed entirely the arguments advanced by that party and shared its reservations about the lack of action taken with regard to the person apprehended in connection with the attempt on the life of Mr Kerr. The party said it was surprising that the Director of Public Prosecutions had decided that no charges should be brought. This may have been a happy coincidence but it made the party uneasy. It was correct to say that the matter was entirely one for the DPP to decide, but it felt that increasingly there were more and more of these happy coincidences.

15. The party also said that in refusing to allow Sinn Fein into the talks process in the absence of a cease-fire, both Governments had decided that - notwithstanding its popular mandate - its close control of and connection with the IRA ruled out that possibility. The declaration of a cease-fire by the CLMC was a necessary prerequisite for the PUP/UDP to enter the talks process. Therefore, both Governments had accepted the clear and positive nexus between these parties and their terrorist groupings. The fundamental requirement in both cases was a cease-fire. All the Mitchell Principles did was to provide a set of defining criteria as to what a cease-fire actually was. These principles and a cease-fire represented one and the same thing. A breach of a principle was in fact a cessation of the cease-fire.

16. The threats by the CLMC against individuals equated with violence or a threat of violence to achieve a political objective and accordingly was a breach of the cease-fire. The UKUP said that Sinn Fein could now argue therefore that it was not necessary to have a cease-fire to get into the talks. That may very well be the Governments' intention and no one should have the slightest doubt about that. The decision not to exclude the PUP/UDP was not based on evidence or principle but on what political expediency required. The other parties present at the talks were the necessary democratic furniture to allow the two Governments to broker a deal between the terrorists. To suggest that what took place around the conference table was a democratic process was a macabre joke.

17. The UKUP said that the British Government had not addressed the critical issues involved such as whether a death threat was a breach of the Mitchell Principles. That this was the case could not be denied. What was really important was the relevance of the Governments' ruling in the context of the connection between the parties who were present and the CLMC who made the threat. This was a dangerous principle to establish; it amounted to saying that the end justified the means.

18. The UKUP maintained that the Governments had not condemned the death threat because the individuals against whom it was directed were a thorn in their side. It said that the Governments wouldn't always be able to keep the lid on the suppurating mass of evil material that would emerge as a result of their policy. Also, the people were losing faith in a system that was demonstrably supporting parties which were connected to groups making these threats.

19. The Chairman, at this point, said that there were no further comments forthcoming and hence that was the end of the session. As he had indicated earlier, he was expecting the written responses from the parties indicted in the Alliance document, not later than 14.00 that day. All papers would then be circulated to the parties. The meeting was then adjourned at 11.08, subject to the call of the chair.

Independent Chairmen Notetakers
26 September 1996

OIC/PS10