

CONCLUSIONS OF THE GOVERNMENTS ON REPRESENTATIONS MADE BY THE UUP AGAINST SINN FÉIN

1. This document sets out the conclusions of the Governments on the formal representations made by the UUP in a letter to the Independent Chairmen of 16 September that Sinn Féin were no longer entitled to participate in the talks.

Background: The Rules and Principles, and Procedures followed

Rule 29

2. The procedure to be followed is set out in Rule 29 of the Rules of Procedure for the Negotiations agreed on 29 July 1996:

If, during the negotiations, a formal representation is made to the Independent Chairmen that a participant is no longer entitled to participate on the grounds that they have demonstrably dishonoured the principles of democracy and non-violence as set forth in the Report of 22 January 1996 of the International Body, this will be circulated by the Chairmen to all participants and will be subject to appropriate action by the Governments, having due regard to the views of the participants.

The Mitchell principles

3. The relevant passage of the International Body's Report reads:

20. Accordingly, we recommend that the parties to such negotiations affirm their total and absolute commitment:

- a. To democratic and exclusively peaceful means of resolving political issues;
- b. To the total disarmament of all paramilitary organisations;
- c. To agree that such disarmament must be verifiable to the satisfaction of an independent commission;
- d. To renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations;
- e. To agree to abide by the terms of any agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree; and,
- f. To urge that "punishment" killings and beatings stop and to take effective steps to prevent such actions.

4. The letter from the Leader of the Ulster Unionist Party dated 16 September, representing that Sinn Féin were no longer entitled to participate, was circulated via the Independent Chairmen to all participants that day.
5. The UUP representation was considered at the Plenary Session on Tuesday 23 September commencing at 2 pm. The UUP were allowed up to half an hour to speak to their paper; Sinn Féin were permitted up to half an hour to speak on their own behalf; other participants were then permitted to contribute, in accordance with Rule 29. The Governments have since considered the question of appropriate action, in the light of all the material available to them and having due regard to the views of participants.
6. The relevant Rule requires the complaining participant to show that the Mitchell principles have been "demonstrably dishonoured" by the participant or participants complained against. The two Governments noted in their conclusions on representations considered in September 1996 that the terms of Rule 29, and the gravity of the potential sanction, require a clear and unmistakable demonstration by those who assert it that there has been a dishonouring of the principles. As has also been made clear, however, if it is found that the commitment to the principles of a participant has been demonstrably dishonoured, the participant cannot be allowed to remain in the talks.

UUP contentions

7. The UUP representation set out two grounds on which it was asserted that Sinn Féin are no longer entitled to participate. The first related to a statement in the edition of Thursday 11 September of the newspaper "An Phoblacht/ Republican News", described by the UUP as the official newspaper of Sinn Féin, in which an interview with "a spokesperson for the IRA leadership" is printed. The interview included the following passage:

An Phoblacht: Sinn Féin have affirmed the Mitchell principles. Do you have a view on that and what of your own view on the Mitchell principles themselves?

IRA: Sinn Féin is a political party with a very substantial democratic mandate. What they do is a matter for them. But I think all Republicans should understand and support them as they do what they believe is right and necessary to bring about a lasting peace. Sinn Féin's stated commitment is to secure a peace settlement which both removes the causes of conflict and takes all the guns, British, Republican, Unionist, Nationalist and Loyalist, out of Irish politics. The Sinn Féin position actually goes beyond the Mitchell principles. Their affirmation of these principles is therefore quite compatible with their position.

As to the IRA's attitude to the Mitchell principles per se, well, the IRA would have problems with sections of the Mitchell principles. But then the IRA is not a participant in these talks."

8. The UUP alleged, first, either that this "statement" was a repudiation of the commitment on Tuesday by Sinn Féin to the principles of democracy and non-violence; or that, taken together, the statement of commitment of Tuesday and this passage led to the conclusion that there had not been a genuine commitment to the Mitchell principles.
9. They also alleged that the absence of a recognised codeword associated with any other paramilitary organisation in the warning about the Markethill bomb, and the geographical location of the attack, amounted to clear prima facie evidence of involvement by Sinn Féin and the IRA.
10. In the course of their presentation to the Plenary, the UUP sought to establish that there was a link between individual delegates of Sinn Féin and the IRA; and that Sinn Féin were already committed to frustrating the objects of the talks. On the first point, they cited a number of comments by British Ministers to the effect that the IRA and Sinn Féin were inextricably linked; the Secretary of State, at the UUP's invitation, confirmed that she stood by these comments.

The Sinn Féin response and the plenary discussion

11. Sinn Féin in response indicated that they did not intend to rebut point by point the issues raised. They asserted that Sinn Féin was not the IRA. They added that they had not signed up to the Mitchell principles lightly; and though they believed them in some respects too restricted, they would keep to what they had affirmed.
12. Much of the ensuing discussion concerned points not directly related to the substance of the UUP representation. But it was suggested that evidence had not been presented to show that the quotation from An Phoblacht amounted to disavowal of the Mitchell principles: 'having problems' did not equate to disavowal. A number of delegations also suggested it was a pretence (and harmful to the prospects of the talks) to suggest that the IRA and Sinn Féin were not closely linked.

Conclusions

13. Before considering the detail of their conclusions, the Governments would like to make clear several general points. First, their position is based on paragraphs 9 and 17 of the Ground Rules, as well as rule 29 of the rules of procedure. They reiterate that they will expect the Republican Movement as a whole to honour the commitment to the Mitchell principles affirmed by Sinn Féin. In particular, the Governments find it hard to conceive of circumstances where, after a group with a clear link to any party in the negotiations had used force or threatened to use force to influence the course or the outcome of the all-party negotiations, the relevant party could be allowed to remain in the talks.
14. Second, they acknowledge again the concern, widely felt in Northern Ireland and further afield, that within two days of the commitment by Sinn Féin to the principles of non-violence and democracy, a spokesperson for another part of the Republican Movement indicated that the IRA would have problems with sections

of the principles. The remarks in the An Phoblacht article were damaging and unhelpful to the process of building confidence in all parties' commitment to an agreed negotiated settlement.

15. Turning to the first part of the UUP representation, the Governments acknowledge that in certain circumstances words, as well as actions, could constitute a "demonstrable dishonouring" of the principles. But they do not see that language so vague as that complained of could be held to amount to "demonstrable dishonouring". As was suggested in the discussion, for someone to say that he or she "would have problems with sections of the principles" manifestly does not carry any *necessary* implication that he or she does not intend to abide by them. It follows, given the principle that has been applied to previous representations that the dishonouring should be "clear and unmistakable", that the case cannot be held to have been made out in this instance.
16. Turning to the second alternative contention in the first ground, that the commitment made by Sinn Féin to the Plenary on 9 September was not a genuine one in the light of what was published two days later, the import of the words complained of is, as noted above, obscure and falls short of a clear disavowal of the principles. The Governments do not believe they demonstrably dishonour Sinn Féin's commitment to the Mitchell principles.
17. On the second ground of complaint, the two Governments have considered all the information available to them about the Markethill attack. They have noted that a claim of responsibility for the bomb has, since the UUP representation was made, been made by the Continuity Army Council, and there has been an express disclaimer on behalf of the IRA (though neither Government regards such claims or denials of responsibility as necessarily conclusive). They have consulted their security advisers. They have concluded, in the light of all the information available to them, that they do not have grounds for believing that the IRA was responsible for the deplorable attack in Markethill; and therefore cannot conclude that this attack amounted to a breach of the Mitchell Principles by the IRA, a group with a clear link to Sinn Féin. They also note that the perpetrators of the bombing were criticised by Sinn Féin delegates as 'enemies of the peace process'.
18. It follows that the two Governments conclude that in this case there has been no demonstrable dishonouring of Sinn Féin's commitment to the Mitchell principles. Hence no further action is appropriate.

The future

19. Now that the negotiations are constituted on an inclusive basis, and about to enter their substantive phase, the Governments reiterate that the most scrupulous observance of the principles of democracy and non-violence, to which the participants in the talks have subscribed, is an essential requirement if they are to be fruitful. The Governments will react firmly to any infringements.

24 September 1997