

CONCLUSIONS OF THE GOVERNMENTS ON REPRESENTATIONS
MADE BY THE ALLIANCE PARTY AGAINST THE UUP, DUP, PUP AND THE UDP

1. This document sets out the conclusions of the Governments on the formal representations made by the Alliance Party to the Independent Chairmen that the UUP, DUP, PUP and UDP were in breach of the Mitchell principles.

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:

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 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 Alliance Party's "Submission on breaches of the Mitchell Principles" dated 10 September 1996 was circulated by the Office of the Independent Chairmen on 16 September, together with a letter from the Alliance Party leader dated 16 September, and the responses to the Alliance Party Submission by the UUP, DUP and UDP, each dated 16 September. These documents are appended to this determination and speak for themselves. The PUP stood by its response to the representation previously made by the DUP, as set out in the Conclusions issued by the Governments on 11 September 1996. On 16 September the Office of the Independent Chairmen circulated a note by the Governments indicating that they regarded the matter referred to in that part of the Alliance Party Submission relating to the PUP and the UDP as having already been addressed in the Conclusions issued on 11 September 1996 in respect of the representation previously made by the DUP against those parties.
5. The Alliance Party's Submission was considered on 18 September 1996 in a Plenary Session commencing at 10.05 am and concluding at 10.45 am. In the course of that session there were contributions by the Alliance Party, the DUP and UUP. No other participant sought to express any views on the Alliance Party's Submission. The Governments' then considered the question of appropriate action in the light of all the material available and the views expressed at the Plenary Session.
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.
7. The terms of the rule, and the gravity of the potential sanction, require a clear and unmistakeable demonstration by those who assert it that there has been a dishonouring of the principles.

The Alliance Party allegation against the UUP and DUP in relation to events at Drumcree

8. The Alliance complaint specified a breach by the UUP and DUP of principle (a), on the basis that the events surrounding Drumcree represented a deliberate defiance of the rule of law, organised by senior members of the Orange Order, which is constitutionally linked to the Ulster Unionist Party, and with an overlap or cross-membership of some key personnel. In the course of the Plenary session on 18 September, the Alliance Party further asserted that the events surrounding Drumcree also constituted a breach of principle (d) on the part of the UUP and DUP.

9. The complaint alleged further that the events surrounding Drumcree were endorsed by leading members of the UUP and the DUP, and could not have taken place without the knowledge and approval of the UUP leadership.
10. The Alliance Party also made clear that it was not seeking the expulsion of any of the accused parties from the Talks, but rather wanted renewed emphasis on the importance of the principles, and of universal adherence to them by all participants.

UUP response

11. The UUP response restated that party's full acceptance of the principles of democracy and non-violence set out in the report of the International body. It rejected any breach of the principles and said that the UUP had consistently condemned violence from whatever quarter.

DUP response

12. The DUP stated that the Alliance Party had failed to produce proof of breaches by the DUP of the Mitchell principles and maintained that the actions of their members had been consistent with them.

Government consideration

13. In order to establish whether there has been a breach of one of the principles, it is necessary to have regard to the intentions of the relevant participants at Drumcree.
14. In particular, it is incumbent on those asserting that there has been a breach by the named parties of principle (a) to show that it was the intention of the UUP or DUP to act otherwise than in accordance with their publicly stated commitment to democratic and exclusively peaceful means of resolving political issues, and that they did so.
15. In relation to possible breaches of the principles by the Orange Order or members of that institution referred to by the Alliance Party, it would be necessary to establish that the relevant acts were carried out under the authority or at the direction of the UUP or the DUP.
16. In order to establish that a failure to oppose the threat or use of force in relation to events at Drumcree constitutes a breach of principle (d), it must be shown that such threats or use of force was intended to "influence the course or the outcome of all-party negotiations".

Conclusion

17. We do not consider that the Alliance Party established that the actions of the Orange Order complained of were demonstrably under the authority or at the direction of the UUP, or that the relationship between the UUP and that institution is such that the UUP must of necessity be answerable for the actions of the Order in relation to the principles.
18. We do not consider that the Alliance party established that the involvement of individual members of the UUP or DUP in the activities of the Orange Order, or more generally, at the time of Drumcree demonstrably established on the part of those individuals a breach of the principles.
19. We do not consider that a breach of principle (d) may be safely inferred from a failure to condemn particular actions, since it would, among other considerations, be necessary to establish that any threat or use of force involved was intended to influence the course or outcome of all-party negotiations, and such motive was not established.
20. Therefore it has not been established that there has been a demonstrable dishonouring of principle (a) or (d) by any of the named parties.
21. The UUP and DUP have asserted, and continue to assert, their total and absolute commitment to the principles of democracy and non-violence set out at paragraph 20 of the report of the International Body.
22. Therefore no further action is appropriate.

Representation relating to the CLMC threat

23. The Governments considered that the Alliance complaint against the UDP and PUP was not different in substance from one of the DUP representations which the Governments had already considered and determined, having due regard to the views of all the participants. The Governments therefore reached the view that it would be inappropriate for them to enter into renewed discussion and consideration of this matter, and that they should take no further action on it.

Representation in relation to the DUP and Mr Billy Wright

24. This representation rests on the participation by the Reverend William McCrea MP in a public rally in Portadown on 4 September 1996 in support of Mr Billy Wright, which it was asserted, combined with the failure of the DUP to condemn this action, violated principles (a) and (d).
25. Mr Wright was the subject of a threat of "summary justice" issued by the CLMC.

26. The Reverend William McCrea has asserted that his presence and actions were intended to express support for the right of anyone not to be so threatened.
27. The likelihood that such association might be interpreted as support for, or solidarity with, Mr Wright's alleged policies and actions, rather than opposition to the threat against him, was highlighted in the Alliance presentation.
28. It was not however demonstrably established that the Reverend William McCrea intended or wished his association with Mr Wright on the occasion complained of to express any positive support for the positions and views of Mr Wright, or that his statements on the platform warranted such an interpretation.
29. In view of the Reverend William McCrea's assertion that his actions were intended to express opposition to the threat issued against Mr Wright, we do not consider that the Alliance Party established a demonstrable breach of principle (a) or of principle (d).
30. No further action is therefore appropriate.

[23/9/96]

Office of the Independent Chairmen

Castle Buildings, Stormont, Belfast BT4 3SG
Tel. (01232) 522957, Fax (01232) 768905

^{Sent}
16 July 1996

MEMORANDUM

TO: All Participants

FROM: The Independent Chairmen

SUBJECT: Alliance Party Submission and Rebuttals

Copies of "An Alliance Party submission on breaches of the Mitchell Principles" (as modified by a letter from the Alliance Party leader, also attached) as well as copies of the rebuttals submitted by parties referred to in that submission are herewith distributed for participants' review and consideration.

The Progressive Unionist Party has chosen to stand by its submission in rebuttal of the DUP Notice of Indictment and the determination of the Governments and will make no further submission.

Participants will be notified as soon as possible of the timing of a plenary session to discuss the Alliance Party submission and rebuttals of that submission.

Enclosures:

An Alliance Party submission on breaches of the Mitchell Principles
UUP Response to the Alliance submission on alleged breaches of the Mitchell Principles
DUP response to the Alliance Party's submission on alleged breaches of the Mitchell principles dated 10 September 1996
Ulster Democratic Party response to Item 2 of the Alliance Party submission

Alliance

The Alliance Party of Northern Ireland

Headquarters

88 University Street
Belfast BT7 1HE

Tel. (01232) 324274 Fax. (01232) 333147
e-mail alliance_party@cix.compulink.co.uk

16th September, 1996

Chairman,
Inter-Party Talks,
Castle Buildings,
Stormont.

Dear Chairman,

Our submission to you in regard to breaches of the Mitchell Principles included a statement to the effect that a UVF banner was displayed on the platform of the rally in Portadown attended by Rev William McCrea. Representations have been made to us that this particular statement was factually incorrect. We are happy to accept these representations about this matter, since we would regard it as entirely peripheral to the substantive issue raised. We would accordingly ask you to strike out the statement in our submission which refers to the 'display of the banner'.

Yours sincerely,



John Alderdice,
Party Leader.

**An Alliance Party submission on breaches of the Mitchell Principles.
September 10th, 1996.**

1. Drumcree:

Principle a/ in the principles set out in the Mitchell report, which is the fundamental and essential first principle from which all the other principles flow, requires parties taking part in the talks to affirm *'their total and absolute commitment to democratic and exclusively peaceful means of resolving political issues'*.

The Secretary of State has described the Drumcree crisis as "a week in which the rule of law was violently, deliberately, and, it has to be said, successfully challenged". During that week members of the Orange Order, with the support, encouragement and active involvement of senior members of the Ulster Unionists and the DUP, engaged in a systematic and politically motivated campaign which challenged the rule of law and the authority of the RUC. This campaign, which had been planned over a considerable period and which is now the subject of investigation by the RUC, sought to overstretch police resources and threaten the complete break down of law and order in the province through the organisation of mass demonstrations and widespread disruption of public order. The campaign went well beyond the specific issue of the march route at Drumcree and was consistently portrayed by those taking part as a challenge to overall government policy.

The campaign was organised by senior members of the Orange Order. The Orange Order is constitutionally linked to the Ulster Unionist Party. Its head is Martin Smyth, a Unionist MP and senior Party spokesman, and its deputy head and chief spokesman during the crisis was Jeffrey Donaldson, a leading member of the Ulster Unionist team in these talks. It is not possible to suppose that this campaign of defiance of the rule of law could have proceeded without the knowledge and approval of the Ulster Unionist leadership.

The campaign was further endorsed, strongly and often in angry and violent language, by leading members of the Ulster Unionists and the DUP.

These actions are not compatible with a total and absolute commitment to democratic and exclusively peaceful means of resolving political issues and must constitute a breach of principle a/ by the Ulster Unionist Party and the Democratic Unionist Party.

2. The CLMC threat.

As has already been raised in the plenary session the Combined Loyalist Military Command has issued a threat to Mr Billy Wright and other dissident members who oppose the involvement of the loyalist parties in political talks. Failure to condemn these threats would place the loyalist parties in breach of Principles a/ and d/ (*to renounce for themselves, and to oppose any efforts by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations.*)

3. The DUP and Billy Wright.

On Wednesday 4th September Mr William McCrea MP of the DUP took part in a public rally in Portadown in support of Mr Billy Wright. Mr Wright, to whom the nickname "King Rat" has been attributed, has been widely identified in the press as a militant loyalist and a supporter of the Mid-Ulster UVF, whose banner was displayed on the platform at the Portadown rally. Mr Wright and his associates took an active part in the Drumcree protest, where Mr Trimble of the Ulster Unionists met him in what Mr Trimble described as an attempt to avoid violence. He is described in the press as a strong opponent of the leadership and policies of the Progressive Unionist Party and of the Combined Loyalist Military Command and an opponent of the loyalist ceasefire, and has been linked to the emergence of a hardline break away faction of the UVF in the Portadown area. Mr McCrea's support for Mr Wright at the Portadown rally, his failure to condemn the policies and actions with which Mr Wright is publicly associated, and the failure of the DUP to condemn or in any way disassociate themselves from Mr McCrea's stand, can only constitute a breach of Principles a/ and d/ by the DUP.



Ulster Unionist Council

3 Glengall Street, Belfast BT12 5AE

Telephone: 01232 - 324601

Fax No: 01232 - 246738

E-mail: uup@uup.org

UUP response to the Alliance submission on alleged breaches of the principles of democracy and non violence.

16th September 1996.

1) The UUP fully accepts the principles of democracy and non-violence set out in the Report of the International Body.

2) We do not consider that the Alliance party submission discloses any breach of these principles or any action by the UUP contrary to them. The characterisation of those events in the second paragraph of that submission is inaccurate overheated political hyperbole, unworthy of serious consideration.

3) The UUP, before during and after this Summer, has consistently condemned violence from whatever quarter.

Leader of the Party: DAVID TRIMBLE, MP

Patron: COLONEL JAMES G CUNNINGHAM, OBE, DL

President: JOSIAS CUNNINGHAM, MA, DL *General Secretary:* JIM WILSON

DUP response to the Alliance Party's submission on alleged breaches of the Mitchell principles dated 10 September 1996.

The Alliance Party's submission is as nauseating as it is contemptible. It is a cocktail of lies, half-truths and innuendoes. It purports to produce proof of breaches by the DUP of the Mitchell principles but does not provide even a grain of evidence to substantiate their spurious claims. The Democratic Unionist Party is proud of the action of its leadership and members who were engaged in upholding the principles of democracy and non-violence arising from the Garvaghy Road residents threats against a peaceful parade. The defence of inalienable rights and freedoms are consistent with the Mitchell principles and the extent to which they are opposed by the Alliance Party and their Republican allies is indicative of their political bias. Moreover, the references to the Member of Parliament for Mid Ulster, Dr William McCrea, are defamatory and have been submitted by him to his solicitors. As these issues are to be brought before the courts, they are *sub-judice* and we intend to make no comment upon them.

Monday 16th September 1996

Ulster Democratic Party

16 September 1996

With regard to the document, *An Alliance Party submission on breaches of the Mitchell Principles*, submitted on 10 September 1996, and, more specifically, to Item 2 of that document.

1. The Ulster Democratic Party refer participants to the document, *Conclusions of the Governments on Representations made by the DUP against the PUP and the UDP*, as clear indication that charges made against the loyalist parties in Item 2 of *An Alliance Party submission on breaches of the Mitchell Principles*, are without foundation and, moreover, have already been dealt with.

2. The Ulster Democratic Party, however, feel obliged to make some comments in relation to the reaction of the DUP spokespersons to the findings contained within the document, *Conclusions of the Governments on Representations made by the DUP against the PUP and UDP*.

a) The only basis upon which Sinn Fein can enter negotiations is clearly spelt out and contained within the Northern Ireland (Entry to Negotiations, etc.) Act 1996. That Act refers to paragraphs 8 and 9 of Command Paper 3232 which unambiguously states that Sinn Fein can only gain entry to the negotiations via "the unequivocal restoration of the cease-fire of August 1994." It is clear therefore that any findings contained within the document mentioned in Item 2 of this paper have no impact whatsoever on the ability of Sinn Fein to enter negotiations.

b) Public statements by DUP spokespersons claiming that the exoneration of the UDP and PUP of any breach of the Mitchell Principles has "provided a ticket for Sinn Fein to enter negotiations without any change in the position of the IRA" are, therefore, without any foundation.