

# Office of the Independent Chairmen

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SUMMARY RECORD OF PLENARY SESSION -  
WEDNESDAY 18 FEBRUARY 1998 (0930) - DUBLIN CASTLE

Those present:

INDEPENDENT CHAIRMEN	GOVERNMENT TEAMS	PARTIES
Senator Mitchell	British Government	Alliance
Mr Holkeri	Irish Government	Labour
General de Chastelain		Northern Ireland Women's Coalition
		Progressive Unionist Party
		Sinn Féin
		Social Democratic & Labour Party
		Ulster Unionist Party

1. The Chairman called the meeting to order at 0944. He said the round table expression of parties' views on the indictment of Sinn Féin would be completed first, followed by a general discussion, followed finally by an opportunity for Sinn Féin to sum up its views.

2. The PUP said that, as the first party to have had an indictment made against it, it recognised the necessity of an inclusive process, and never intended itself to lodge such an indictment against another party. There were relevant precedents, however, especially the indictment against the UDP at Lancaster House, which had implications both for the Governments and for Sinn Féin, who were themselves indicted today. The party wished to comment on some spurious points made by Sinn Féin to differentiate themselves from the situation then of the UDP. The PUP believed that the UDP had never claimed to directly represent the UFF. The UDP, like Sinn Féin, had said they

were present solely on the basis of their electoral mandate. In Lancaster House, Sinn Féin had repeated a loyalist comment that [their] mandate was the silence of the guns, but this had been said by the PUP and not the UDP. Sinn Féin's defence in recent days was hypocritical - they had never tried to defend the UDP on the basis of its mandate, and indeed had been proactive in trying to bring forth forensic evidence to identify the involvement of the UFF. Sinn Féin was now calling into question the same source of forensic evidence - the RUC.

3. The PUP noted that the Taoiseach had clearly stated that DAAD was a cover name for the IRA. The UDP did not represent the UFF politically but had been expelled, with the attitude of Sinn Féin as part of the driving force behind the decision, and Sinn Féin were now hoist on their own petard. The weapon used had been linked to a previous murder, and it was a clear case of the IRA committing violence. The PUP was prepared to accept that Sinn Féin was not itself responsible for the murders, but then neither had the UDP been. The party recalled vividly Sinn Féin's demand that the UDP expulsion be dealt with that very day in Lancaster House: there were no court cases, no tedious adjournments. The PUP was not a party of expulsion, but believed a marker had been laid down in Lancaster House which had to be followed. The party recognised that it might one day have to suffer the same consequences. Regrettably, the PUP had to take the view that Sinn Fein were complicit in killings in the same way as the UDP had been, and must leave the talks.

4. The SDLP wished to put on record its intense dislike of the indictment procedure, which ate into the soul of the process and devalued participating as individuals, as parties and as a collective body trying to solve problems. No one could fail to recognise the damage to the psyche of the process done by yesterday's events. Each indictment narrowed the possibility of getting the modicum of trust necessary if negotiating are to succeed. This was intensified by the 'sin bin' factor after an expulsion. It was entirely out of proportion to the enormity of the violence from all sides on the streets, and to the needs and requirements of the process. The Chairman had said correctly, in a little read part of the International Body Report, that there was a need for the people to be reassured that their democratic and moral expectations could be realised. The expectation of the people was that participants would abide by the spirit and the letter of the Mitchell Principles. The people wanted the talks to succeed, and had a right to expect that when three days were spent in London or Dublin at least a nod in the direction of our actual work will have been made, be it discussing Strand Two or One or whatever. What was crucially important was that the basis on which the talks process was taking place was being severely damaged by these events. The party wondered if there was even a remote possibility that there was sufficient respect remaining among the parties here to negotiate from this point on.

5. On the substantive matter, the SDLP said the parties had no intelligence or evidence or information on the matter, and yet had been asked to give a view on the basis of two pieces of paper. It bordered on contempt to be asked for an informed view on such a basis. It was incredible that parties should be asked to make a decision of such import - that a party to these talks had broken the Mitchell Principles - on the basis of these two bits of paper. The party believed that the Mitchell Principles had to be maintained even if all else failed in this process. The SDLP said that we had to ensure in deliberations that what was done was consistent, fair and equitable. The determination would have to stand up to examination on the basis of previous cases. The SDLP had looked at the precedents, and identified four key criteria which were applied in previous determinations. These were:

1. There had to be a clear and unmistakeable demonstration, by those who asserted it, that there had been a dishonouring of the Mitchell Principles.
2. It had to be shown that it was [the accused party's] intention to act other than in accordance with its publicly stated commitment to democratic and peaceful means.
3. It had to be demonstrated that the use of force had been intended to influence the outcome of all party negotiations.

4. It had to be demonstrated that the acts complained of were carried out under the authority or at the direction of the party, or that the relationship of the party and the [paramilitary] organisation was such that the party was of necessity answerable for the organisation's acts.

These were not options for the Governments, but had to be demonstrated to the parties in the process. Natural justice applied here, just as it would in a legal case. Sufficient information was necessary to make decisions that were consistent and equitable. The SDLP said that it was an enormous accusation to make that a party had broken the Mitchell Principles, and wondered also about the enormity of asking parties to give advice and an opinion on what should be done based on these two bits of paper.

6. The Chairman opened the matter for general discussion. Sinn Féin wanted to answer some of the points made. The precedent used by the PUP was wrong: the difference at Lancaster House was that the UFF had made a statement of admission. 25 Catholics had been attacked in two months, 100 since June. Sinn Féin spoke only for the party and its electorate, whereas the UDP had spoken before the International Body on behalf of the UDA and UFF. It was not Sinn Féin's fault if the UDP had not gone to court etc. - that had been for them to decide. For Sinn Féin and for nationalists, the big difference was that this whole procedure rested on the opinion of one person, the RUC Chief Constable. It was the domino theory gone mad. The Chief

Constable made a statement; he gave no evidence and then hid behind a sub judice rule which he was happy to ignore when it suited him; he had told the British Government of his view, and the Government had made a statement; then his assessment had been passed on to the Gardaí, which advised the Irish Government. It all gained credibility like a snowball, but was based on one person's assessment without any supporting evidence at all being produced. The Chief Constable was not a credible person. Sinn Féin represented a community and an electorate which did not trust the word of the RUC, because of its record of hostility to nationalists. The party said it could argue that there was an "inextricable link" between the RUC and loyalist death squads, and referred to agent Brian Nelson who had been involved in importing arms from South Africa for loyalist organisations. Nationalists knew all about collusion, with thousands of RUC documents on Catholics having been passed to loyalists - to refer only to the ones that had been found. The RUC was involved in mass intimidation in nationalist areas, and elected representatives who tried to monitor these activities were arrested. The RUC was looked upon as the armed wing of unionism and Orangeism. It was a paramilitary force rather than a police force, engaged in sectarian abuse. This was the organisation whose leader, the Chief Constable, we were asked to accept had made an objective assessment, and on whose word the party was to be ejected.

7. Sinn Féin agreed absolutely with the SDLP about the enormity of the situation. We had been given two pieces of

paper, but no evidence whatever. The Taoiseach had said in the Dáil the previous day that he had seen no evidence linking Sinn Féin to these murders. An attempt was being made to disenfranchise republican voters. Parties representing 291,000 voters had opposed their exclusion, while parties representing 257,000 voters wanted them out. The party said that it was clear over a long period that any time some parties had tried to put together a solution that was not inclusive it had failed. This process was a great opportunity to bring the conflict to an end, but it needed everybody in it, it needed Sinn Féin in it. It would be a great mistake to eject the party. Its electorate, who had been treated for so long as second class citizens, needed to be represented here.

8. Labour welcomed the SDLP's comments highlighting the difficulty facing parties in this discussion, and wanted to make further comments itself. Alliance had said that for Sinn Féin to remain they had to make "a clear statement of opposition to the plans and purposes of those who carried out these murders". Labour said that Sinn Féin's oral and written responses had met this test, and that Alliance should therefore withdraw its indictment. In its submissions, Sinn Féin had repeatedly said it supported the Mitchell Principles and democratic and exclusively peaceful means. They had said they believed the IRA had not breached its cessation, and Sinn Féin had disavowed all killings. The party did not know what more could be asked of Sinn Féin. Labour said that the Chief Constable's statement that the IRA was involved in the two killings could not

reasonably be taken as definite proof. Internationally it would be regarded with suspicion, and in Ireland a substantial proportion of the population, including people on all sides, would have concerns about the ability of the RUC to act impartially. Although for political reasons one side might accept the Chief Constable's verdict in this case, his statement implicating the UFF had not been accepted by many unionists until the UFF admitted responsibility.

9. Labour said that in a court, the evidence of the police was not accepted as unquestioned fact without evidence and scrutiny. The Chief Constable, whose assessment was being judged by the Secretary of State, was himself appointed by and could be dismissed by the Secretary of State. This added to concerns about the fairness of how Sinn Féin were being treated. The UUP and Alliance had opposed Sinn Féin's entry to the talks and had been unwilling to accept that party's sincerity. These parties appeared now to be simply restating that position. The other parties had accepted the fact of the ceasefire and the desire of Sinn Féin's voters, and had taken Sinn Fein at their word, treating them as equals and as genuinely part of the process. The parties who took this attitude had been proven right. Sinn Féin had worked at the talks, and there had been no serious allegation before this that they had violated the Mitchell Principles. The two parties seeking Sinn Féin's removal on this occasion were not the most reliable authorities in this matter: they had not accepted Sinn Féin's word then and were not likely to do so now. The problems which they had in this



regard should not be allowed to obstruct the process. Labour believed that Sinn Féin were genuinely working to bring about a peaceful settlement. The party did not believe that any participant at the talks had planned the murders the previous week, or had used violence in order to influence the negotiations.

10. Labour regretted that Sinn Féin had played up differences between themselves and the UDP. The party felt that the UDP should not have been expelled, and should be immediately reinstated. Labour considered that Sinn Féin and the IRA were entwined, but not the same; that the UDP and the UDA/UFF were entwined, but not the same; and that the PUP and the UVF were entwined, but not the same. Middle and upper class politicians such as the UUP were able to use the threat presented by loyalist paramilitaries to advance their own agenda, while remaining personally untainted by violence. In reality, Northern Ireland needed the PUP and UDP. It was the emergence of such parties as serious fighters for peace that had enabled the process to get where it was. The real problem was extremists such as the LVF and INLA who considered murder an acceptable means. The UDP was working to overcome such problems. There was a difference in their case in that the UFF had admitted to murders, but Labour said that the real issue was were the people at the talks working for peace and applying the Mitchell Principles. If any of the parties adopted violence and betrayed the Principles, they should go, but Labour did not believe this to be the case. The party asked the two Governments to reconsider and withdraw their indictment. If

there had been a commitment to the UUP and others in advance that Sinn Féin would be removed, this was wrong and should not prejudice the consideration of the arguments presented here.

11. The NIWC asked for a short adjournment to allow them to have some papers checked which were in Belfast. The Chairman adjourned the meeting for 20 minutes at 1025, to resume at 1045.

Independent Chairmen Notetakers  
25 February 1998