

DRAFT SUMMARY RECORD OF OPENING PLENARY SESSION -
WEDNESDAY 11 SEPTEMBER 1996 (14.33)

Those present:

Independent Chairmen	Government Teams	Parties
Mr Holkeri	British Government	Alliance Party
General de Chastelain	Irish Government	Labour
		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. Mr Holkeri (acting as Chairman) convened the session at 14.33 and explained that Senator Mitchell had had to return to the USA unexpectedly. Mr Holkeri added that the Senator would return to Belfast the following week. The Chairman then stated that there were two issues before the session: firstly an announcement would be made regarding the Alliance Party submission detailing allegations against the UUP, DUP, UDP and PUP regarding breaches of the Mitchell Principles during the events of Drumcree; secondly the Governments would announce their decision on the earlier DUP indictment paper and the PUP/UDP's rebuttal of its contents.

2. The Chairman, speaking in relation to the Alliance Party paper, indicated his intention to follow the pattern of procedures already established under rule 29. This meant that following adjournment of this session he would hold separate meetings with the relevant parties in order to establish an outline timetable

for progress on the matter and gain a view as to when each of those accused would be in a position to submit a written response. The Chairman added that, as with the previous case raised by the DUP, responses to the charges would be circulated to all participants along with the Alliance Party submission. The Plenary session would then be convened, as before, to hear the views of both the Alliance and the respondents, although given the preparatory work required, it was likely that the next Plenary session would not take place until Monday 16 September. The Chairman asked for views on his proposals.

3. The UKUP sought clarification as to why the Alliance issue had been taken before the Governments' decision on the PUP/UDP position was announced. The Chairman informed the UKUP that the Alliance submission had arrived with the Chairmen before a decision had been reached on the PUP/UDP issue. The SDLP also sought clarification on the timescale of forthcoming business and whether their understanding of the Chairman's comments meant that next week's Plenary sessions would be entirely taken up with resolving the Alliance allegations. The SDLP were concerned that "natural justice" should apply to those who were not involved or facing any allegations, thereby allowing business to progress on substantive issues. The SDLP stated that a thin line existed between the citing of allegations and the mischievous use of procedural rules which themselves had taken a long time to agree. The party was finding it increasingly difficult to believe in all of this, that a total commitment of good faith towards the talks process was still being displayed by all the participants. The leaders of political opinion in Northern Ireland were gathered in the room and, following the worst summer of tension and violence for years, actual leadership was needed badly, but the daily diet

to the media seemed to be one of petulance and schoolboyish behaviour from certain quarters.

4. The SDLP concluded that the critical wasting of time in issues such as this was bad for the negotiations but even worse for those listening or watching from outside. The party therefore wondered whether Alliance should not reconsider their actions in submitting the allegations, not because it (the SDLP) believed there weren't serious breaches of the Principles by those named by Alliance, but because such actions had implications for the wider process.

5. The Alliance Party commented that the SDLP/public view appeared to have changed from the private one when they had raised the matter with them previously. Alliance continued, saying that if the Mitchell Principles were to have any meaning at all, then the position of those involved in the events of the summer had to be cleared up. If Sinn Fein became part of the process (following a cease-fire) there would be no point investigating any new breaches of the Principles if former breaches were not dealt with properly. There was also the point that those parties not now involved in allegations should not assume that this would always be the case. Issues such as this had to be resolved by everyone being straight.

6. The SDLP confirmed that it had privately discussed the new allegations with Alliance and had come to the view that the net outcome would be that no breach of the Principles had occurred. The SDLP also reminded participants that the process had devoted a long session, prior to the recess, in which all of the fall-out from Drumcree had been debated. On these grounds the SDLP again appealed to Alliance to reconsider its actions.

7. Alliance, in reply, stated that any future widespread political agreement had not only to be built on solid principles but on not ignoring them as well. Alliance had no intention of withdrawing their submission for this reason. It did, however, believe that their concerns regarding PUP/UDP actions were the same as those presented by the DUP. Alliance stated that it felt no useful purpose would be served by going over this ground again as the Government would be viewing material a second time. Nevertheless, Alliance did agree that the PUP/UDP had breached the Mitchell Principles. The Chairman referred to the SDLP's earlier request for guidance regarding the timing of the following week's business and stated that the contents of rule 29 had to be followed. He therefore had no specific view of timing.

8. The SDLP returned to this point, attempting to ascertain whether there would be sufficient time for those not involved in the allegations to get on with other matters. The Chairman acknowledged the point raised and stated that he would attempt to establish some kind of timescale for next week or at least indicate when responses would be available for circulation. The Chairman then asked the Government to present its decision on the PUP/UDP issue.

9. The British Government stated that it had not been established that the UDP and PUP had demonstrably dishonoured the principles of democracy and non-violence set out in the report of the International Body on 22 January 1996. The British Government added that the text of the decision would be circulated but no further action would be taken nor did it propose to add to the language in the text. The Chairman stated that having heard the

Governments' decisions and other remarks he now ruled that this matter had been concluded.

10. The UUP stated that while it did not wish to delay the process, it believed issues arising from the decision might require careful examination in advance of future cases. The UUP therefore considered that some time should be allowed for discussion, once everyone had had a chance to study the Governments' response, since the reasons given were likely to be just as significant as the decision itself. The Chairman referred to rule 29 and to the role of the chair and that of both Governments. He therefore viewed the decision as "appropriate action" being taken and the matter was therefore concluded. The UUP commented that while it acknowledged that it had no right to reverse the decision, it did have a right to comment on it.

11. The Chairman acknowledged the latter point and stated that the chair did not want to encourage comment but realised it couldn't restrict or obstruct it but such comment could have no effect on the decision. The SDLP inquired under what rule of procedure was general comment on this decision permitted. The Chairman for his part emphasised that the participants had already been presented with an opportunity to hear all the relevant aspects of the case. The final decision was in the hands of the Governments. The SDLP again inquired as to whether the matter was now closed. The Chairman commented that as far as the chair was concerned, the matter had been concluded. The DUP recalled the Chairman's earlier comments regarding not encouraging but not ruling out general comments on the decision. The Chairman reaffirmed this position. The UUP returned to its earlier point, saying that while it had no argument with the decision, there remained the issue of being able to comment or reserve its

position on issues or reasons flowing from the decision. The SDLP then proposed a procedural motion, seconded by Labour, outlining the view that the session should now proceed to the next business and bring this particular issue to a close. The DUP inquired under what rule of procedure did such a procedural motion have status.

11. The DUP contended that the pressing of the motion was a direct challenge to the authority of the chair through the use of bullying tactics.

12. Labour then raised a point of order with regard to the provisions of rule 25 in relation to the ruling of the Chairman on individual matters being of a binding nature. The Chairman said that he was just about to refer to that point - but the participants also had the right to express themselves.

13. The UUP said that Labour had only quoted half of the rule and the meeting should therefore proceed to deal with the motion put forward by the SDLP on the basis of sufficient consensus. Labour requested clarification of the UUP's point given that the Chairman had already given a ruling that the matter had been concluded.

14. The DUP said there was no question over that issue. The point was the Chairman had also said that he would not deny the parties the right to discuss the matter. The Chairman said that some parties wanted to make comments. This might or might not be useful but he wouldn't rule against it for the moment.

15. The SDLP said it believed that its procedural motion should be adopted so that the meeting could proceed to the next business. The Chairman requested comments on the SDLP proposal. The

Alliance Party said that the proposal would not get sufficient consensus since those parties who wanted to proceed with the discussion on the Government's decision had sufficient numbers to block its adoption. The Chairman said that while that appeared obvious to him he would put the motion to a vote. Labour, NIWC, PUP and SDLP voted for it; the DUP, UKUP and UUP voted against it with Alliance and the two Governments abstaining. The Chairman accordingly invited comments from the parties.

16. The UUP suggested that the matter could be considered by parties between now and resumption of the Plenary meeting on Monday next. The SDLP said that as the Governments' ruling on the matter couldn't be changed, discussion was a waste of time. The UUP again said it accepted the Governments' decision and it did not wish to alter it, but the point was that the reasoning behind the decision could be significant. It might set a precedent and have value accordingly. The matter deserved further consideration and the party wanted time to study it and make comments on Monday morning. The UUP said it did wish to move on to other issues rapidly, but next week was going to be devoted to the Alliance allegations in any case so why not have a discussion on the Governments decision.

17. The UKUP referred to the fact that this was the first such ruling on what did or did not constitute a breach of the Mitchell Principles. Next week the meeting would discuss the Alliance Party's allegations but the decision taken today offered a precedent and an analysis of the principles upon which the decision was taken. Accordingly, some time should be allowed for the reasoning behind the decision to be considered.

18. The Chairman then said that the meeting stood adjourned until 10.00 on Monday morning. At that time, the comments of the participants could be presented in a maximum time of 2 hours. The DUP asked whether questions could be put to the Government during this period. It felt that this was essential as some of the party's delegates were missing. It also said that it was contemptible for the British Government to rush this matter through. The British Government confirmed that it would not be adding to the language of the decision nor would it be commenting on or responding to questions in relation to it.

19. The Irish Government concurred with this view. The test to be adopted was reasonableness and there was no question of re-opening the decision. In other words it was reasonable to allow delegations to comment on the decision and two hours seemed to be a reasonable period. But no further comment would be made by the Governments. The SDLP remarked that Monday's meeting would now spend 2 hours discussing the matter without any response forthcoming from the Governments. Then the session would proceed to discuss the allegations made by the Alliance Party. The net result of all of this was that more time would have to be allowed for the party to put its case and for other parties to respond. So the stark reality was that next week's entire proceedings would be taken up with this issue.

20. The Alliance Party said that much had been made about the judicial nature of this process, but judges were not questioned in relation to their decisions, nor did they comment on them. With regard to the SDLP's point, it seemed keen to regard the Alliance allegations as a fairly minor issue but bringing NI to a halt was not a minor matter in the Alliance's opinion. The DUP asked the Chairman to give a ruling in relation to the Alliance Party's

allegations against the UDP/PUP. It had been referred to earlier that the two Parties could not be tried twice. But as the Governments' response to the DUP's allegations seemed to have been based on narrow grounds, should the parties not now be free to consider any matters raised by Alliance which went beyond this basis? The Chairman said he could not give a ruling on that matter because he had not yet considered the Alliance paper.

21. The UKUP took up the point raised by the Irish Government when it had said that, as the decision was final, nothing further would be gained from examining it. That was erroneous in its view. The examination of the principles on which the decision was based might be useful. The central allegation in the DUP paper was that the position of Sinn Fein/IRA was analogous to that of the UDP/PUP and the CLMC. That had not been determined by the Governments yet that was the issue which would arise for consideration in future cases. The UKUP agreed with the point made by the Alliance Party about the importance which should be attached to a breach of the Mitchell Principles. Those Principles ensured that the democratic process was paramount over the use of violent means to achieve political purposes. To discuss this as an ephemeral matter of no importance as the SDLP had contended was disgraceful and incomprehensible.

22. The SDLP responded by saying that it shared the UKUP's absolute revulsion of violence from wherever it came. The political process was, however, the only way of solving political problems. But when issues were allowed to stand in the way of the political process, the question arose as to whether those issues were being used as matters of principle or merely as tactics to delay political progress. The UKUP stated that it was getting increasingly tired of allegations of bad faith made by the SDLP

and the use of fabian tactics to delay or obstruct the talks process. That was a matter of opinion on their part but there was also a contrary view and the SDLP should cease making those allegations against people who held a different view on the importance of such matters.

23. The NIWC said that it presumed from the UKUP's comments that it had full faith in the talks process. The UKUP said that it had its own view of the background to the election and the keeping of certain parties in the talks process by the Government. That was one thing, but the party approached the process itself with good faith and integrity.

24. The Chairman reiterated his decision, now unanimously agreed, that the meeting would be adjourned until 10.00 on Monday next. The first two hours of discussion would allow participants to comment on the Government's decision on the non-expulsion of the two loyalist parties. There was therefore no need for representatives to remain today to hear the timetable as had been proposed earlier. The SDLP queried whether the judgement of the two Governments would be released to the press or was it regarded by them as confidential. It also queried whether all the allegations against the parties made by Alliance were subject to the rules of confidentiality?

25. The Chairman replied that the answer to the second question was that confidentiality did apply and he invited the British Government to deal with the first question. The British Government stated that, in normal circumstances, confidentiality would apply but, as it was generally known that the UDP/PUP issue was under consideration, it believed that the public interest in both senses, would be served if the papers involved - viz, the

Notice of Indictment, the response by the parties and the Governments' decision were published. In response to a direct question by the UKUP, the British Government said that its response on the matter had not already been released to the media.

26. The SDLP asked that as the Alliance Party had not made its allegations public, would the same rule apply? The British Government said that it seemed best to consider each case separately. The DUP asked whether the British Government was saying that the decision could be justified to the media but it could not be justified to the participants. The British Government stated that neither it nor the Irish Government proposed to comment on the decision either inside or outside the process and then asked whether the delegates agreed with publication of its decision. The UUP said it supported publication of the documents as circulated by the Governments at the meeting. The SDLP asked the Alliance Party whether it would withdraw its allegations against the UDP/PUP in view of the Governments' decision. The Alliance Party said that in its judgement, those allegations were fully covered by the Governments' decision, but that it was ostensibly a matter on which the Chairman had to decide.

27. The Chairman noted that rule 16 regarding confidentiality, etc. applied in the circumstances and subsequently adjourned the meeting with unanimous agreement at 15.35.

Independent Chairmen Notetakers
12 September 1996

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