

SUMMARY RECORD OF OPENING PLENARY SESSION -
WEDNESDAY 17 SEPTEMBER 1997 (18.12)

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 |
| | | Sinn Féin |
| | | Social Democratic & Labour Party |

1. The Chairman convened the meeting at 18.12 following the adjournment and asked the British Government to comment.
2. The British Government said it wished to give its views on the meeting just completed with the Irish Government during the adjournment. The British Government stated that both Governments had listened very carefully to the comments of participants during the previous Plenary session and in the light of these had concluded that the best approach would now be to withdraw their earlier motion. The British Government said it was still both Governments' intention to get the procedural motion down as soon as was practical. The date of Wednesday 24 September was being viewed by both Governments as a back stop and if it was possible to bring the timing forward then this would be done as early as possible next week.
3. As to the earlier questions posed by the SDLP as to why the two Governments wished to go for 24 September, the British Government said that this date had been selected in consultation with the Irish Government for the following reasons. It was the best political judgement of both Governments in their attempts to

achieve inclusivity which everyone had stated was the key objective for the process. 24 September was the best day to table the motion and logistically this could allow it to be voted through on the same day. The British Government said that given today was Wednesday and with further discussions to be held on the motion, it didn't wish to place the participants in a repeat situation of the past three days by going for Monday 22 September. The last few days had been frustrating for everyone and any more of this should be avoided. Going for 24 September might do this. The British Government said it hoped this explanation was helpful.

4. Alliance said it recognised that the Governments had the right to withdraw their motion. The party believed the essential differences between the Governments and the participants were for tactical reasons only. Having said that, Alliance stated that it still wished to differ with the Governments latest reasons so if they withdrew the motion completely that was up to them. The party said the suggestion made that in some way Wednesday could also be a voting day looked strange as it had concluded that the participants, who had yet to see a full text, would have to have the opportunity of studying it in detail. The party said it was opposed, as it believed others would be, to the situation whereby the UUP had already extensive opportunity to study and refine the document from outside the process, whereas those inside would be given next to no time for this. Alliance said participants needed time to study the text.

5. The party said it didn't think the process should be deceiving itself. It had listened to the British Government's comments and analysed the reality of these as saying that 24 September was being considered as the earliest opportunity for tabling the motion, not the latest. Alliance said it might be better to accept this basis

rather than attempt to turn it round and suggest that there was real likelihood of the motion being tabled on 22 or 23 September.

6. The Irish Government said it concurred with the points already stated by the British Government. With regard to the previous comments from Alliance on the issue of presenting a proper opportunity to study the text when tabled, the Irish Government said this was a fair and reasonable point. The Irish Government said that both Governments would give an assurance on this aspect. At the end of the day all delegations had to be involved in this to try and get an agreed resolution so that the process could move on. That was why both Governments were continuing in their attempts to arrive at a draft which would hopefully gain maximum consensus. The Chairman asked whether there was any more comment on the issue.

7. Sinn Féin said it believed the Governments had made a serious mistake with the proposed timing of the procedural motion. In referring to the SDLP's questions in the previous session and the reasons stated by the Governments for their approach, Sinn Féin noted the phrase to "best political judgement". The party asked what was meant by this? Sinn Féin said the reality of the situation was that we cannot pass anything anyhow. The Governments have a document they have not shared with us and they have not put a date on its implementation.

8. Sinn Féin said the date now presented a very clear message that no business was going on here. It appeared from the Governments' comments earlier that Monday would be taken up with bilaterals, Tuesday would see the UUP motion taken with Sinn Féin being subjected to this in yet another process of decontamination and following all of that there might be a procedural motion tabled - but only if the UUP gave its consent to the text. Sinn Féin said

that the procedural motion so far was about consent and decommissioning and would be used, when tabled, as a pointer towards confidence building measures for unionists. The party said the Governments were making a grievous mistake on this issue because what they were really saying was they didn't know when the UUP was coming in. This situation simply gave the UUP leader more and more scope to do what he wanted with the consequent message emanating from all of this being that serious negotiations were occurring with the UUP outside the process and not with those inside the conference room.

9. Sinn Féin said it couldn't understand why the two Governments could not now state that the procedural motion would be tabled on either Monday, or failing that, Tuesday. Then if problems did arise with Monday, these could be dealt with in Plenary there and then. But the Governments hadn't even gone for this. Sinn Féin said it didn't understand the "withdrawal" of the motion by the two Governments and it didn't accept their reasoning for going for 24 instead of 22 or 23 September. The SDLP asked for clarification as to whether it was not the Governments' intention to table the motion in any case but at the very latest on Wednesday. Sinn Féin inquired if this was the case then why could it not be said?

10. The British Government stated that the SDLP was right in its assumption and this intent would be made public. The British Government at this point read a short press release which it planned to issue after the meeting.

11. The Chairman asked whether there were any other comments on this issue before moving on. Hearing none, the Chairman said he now wished to raise a minor issue, which he did not expect participants to respond to immediately, but rather to review and

come back with comments at some point over the next number of days. The Chairman referred to rules 43 and 44 which dealt with the records of meetings and their distribution. The Chairman stated that earlier in the day, the DUP had asked one of his staff for copies of the most recent Plenary minutes. The Chairman said he wished to invite all participants to express their views on it. Hopefully having heard from everyone he would then make a ruling.

12. The SDLP asked whether it was not already clear from the second sentence of rule 43 what the position ought to be on this issue. The Chairman reiterated his request for the views of participants to be given to him over the next number of days. The Chairman said he now wished to move on to the issue of the UUP indictment. There were two issues for discussion; one related to format; the second to timing. The Chairman referred to the Labour motion, previously circulated, regarding the timing of the indictment hearing but said he wished to deal with the question of format first. The Chairman said that in the Plenary earlier in the day he had given an undertaking to inform the meeting about the exact format of previous indictment hearings. The Chairman said the position was a little different to his earlier recollection. He thanked a member of the SDLP for jogging his memory!

13. The Chairman said that while a number of representations had been filed, two had only been formally pursued. On 10 September the Plenary had considered a representation from the DUP against the UDP and PUP. On 18 September the Plenary had considered a representation from Alliance against the DUP and the UUP. The Chairman said in both instances the participants approved, he believed unanimously, a procedure recommended by him that the participant making the representation should be allocated 30 minutes to include any reading of the representation itself. This

was followed by a further 30 minutes to the respondent including the reading of their written response. Following this there was a period of general discussion with the proviso that the total time taken would be no more than 3 hours (and a further proviso that if a participant hadn't been able to put comments before the meeting within the first 3 hours an unspecified allocation of time would be available to do this). The Chairman inquired whether any participant had objections to proceeding in this manner with the UUP representation. The party said a decision had to be taken on the UUP indictment as quickly as possible and wished to base its

14. Sinn Féin said it appreciated that precedents had been set which tied the Chairman in the handling of such issues. Nevertheless the party said that much comment had been made in the margins of the meetings about drawing a line in the sand with regard to testing the UUP's seriousness to enter substantive negotiations. The party said it was also clear that a line needed to be drawn on this issue. Sinn Féin said it believed rule 29 permitted the Chairman to adopt a different approach in resolving this matter. The party said, in support of this view, it could find itself facing indictments every second day and as such much Plenary time could be taken up resolving these. Rule 29 outlined that both Governments would be involved in taking "appropriate action" on any of these indictments thereby causing other more important business to be deferred or sidelined while consideration was given to representations. Sinn Féin said it didn't think such matters should come to the Plenary at all. It believed that both Governments and the Chairmen should consider a different approach as the indictment mechanism could simply be used to waste time and be obstructive. A situation was unreal since, firstly, there could

15. Sinn Féin continued saying that if the indictment had to be taken in Plenary, then it should be taken on Wednesday after the

procedural motion was tabled. The party said it should be remembered that it too could produce indictments against the British Government and unionists if it so wished but it would spare the process all of this. Sinn Féin stated that if the UUP intended to use the representation as an obstruction to entering talks then the Chairman needed to consider the implications of this. could not put with consideration off for almost a full week. The party urged

16. Labour said it believed it had a real case to make in terms of its earlier motion. The party said a decision had to be taken on the UUP indictment as quickly as possible and wished to base its case on the following. Labour said it had listened carefully to the Irish Government's earlier comments regarding the frustration which the participants had felt in the last few days. The party said that as regards the timing of handling this issue, it wasn't a question of frustration but a deep fear and anxiety about what might happen in the next few days. At this point the party read a public statement issued by the LVF which, inter alia, pointed to a threat by that organisation to carry out retaliatory attacks.

17. Labour said a few weeks ago a most horrible murder had occurred when a 16 year old boy had been abducted by this organisation, killed and the body dumped into a pit dug for animal carcasses. Hardened RUC officers had cried at the scenes of mutilation. The party said it also recalled not very far away from this incident, the dreadful massacre at Loughinisland. Threats from the LVF were very real. Now, however, a bombing had occurred at Markethill and the UUP had raised a formal representation on the matter, yet the process was putting off consideration of this until next week. This situation was unreal since, firstly, there could be a retaliatory attack involving the LVF at any time and, secondly, the wrong public signal was being sent by delaying the hearing of the incident. party said that in terms of a compromise

18. The party quoted rule 29 and said it was now ready and willing to discuss formal representations on issues contained in the UUP's letter of indictment. Labour said the Governments should now take these representations on board and state publicly that they were doing this. The party again emphasised that the process could not put such consideration off for almost a full week. The party urged that it be allowed to put its views on the record now. It didn't believe that past precedent should apply in this case. It had to be discussed immediately. Labour said if there was a case to answer why let Sinn Féin sit in the process. The party said it didn't believe that one extra word would be added to the case by the UUP or anyone else next week. With this in mind, the party said the issue should be disposed of right away and the public told the outcome.

19. The SDLP asked whether the 3 hour time limit outlined by the Chairman was incremental in terms of the number of participants either speaking or not speaking. The Chairman said he hadn't allocated individual amounts of time to participants beyond the first two periods of 30 minutes. After these there was time available for a general discussion provided the whole meeting took no longer than 3 hours - save for the proviso outlined earlier. The Chairman asked whether there was any other comment.

20. Sinn Féin asked whether the UUP indictment was scheduled for Tuesday and who was going to decide on the scheduling. The Chairman said that he would decide this after hearing all the participants' views. Sinn Féin said the UUP indictment was being scheduled because that party wanted it scheduled, yet the procedural motion was not being scheduled because the UUP didn't want it scheduled. The party said that in terms of a compromise

position and to determine fair play it believed it could put up with the UUP indictment being taken in Plenary so long as the that procedural motion was tabled before such a Plenary.

21. Alliance said it had no objection to this. The party said it had also listened carefully to Labour's plea but while it about an sympathised with those sentiments it didn't believe the proposal was one that could be reasonably followed. fully inclusive talks and

22. The NIWC said it also sympathised with Labour's comments. The party said however it saw difficulties in following what Labour proposed. The British Government said it had noted Labour's coming comments and Sinn Féin's suggestion regarding rule 29. It would discuss these with the Irish Government following the adjournment of the Plenary. tion but the fact was that the Governments believed

23. The Chairman, summing up, said the Sinn Féin argument was cogent since rule 29 didn't require a Plenary to sit and judge the representation. The rule did, however, require collective views to be obtained and the information required to obtain views from participants had in the past been successfully gathered from the Plenary. The Chairman said that this had proved a good format in the past for it, in particular, exposed the substance or lack of it in the case being presented for the benefit of both Governments. The Plenary had therefore served to provide the Governments with the necessary information on which to base a judgement. action was

24. The Chairman said Sinn Féin's arguments had been based largely on the factor of abuse. Of course if this did occur it provided Sinn Féin with an even stronger case for change of format. The Chairman said he would take this eventuality into account at the time. This was, however, the first time that Sinn Féin had faced a

formal representation and he therefore concluded that the party's arguments were not sufficiently persuasive to alter his view that the Plenary should be the format.

25. As regards the timing of the indictment the Chairman emphasised that everybody was present to attempt to bring about an agreement and in particular a new arrangement in Northern Ireland. The best way to achieve this was through fully inclusive talks and a great deal of effort already had gone in to achieving this objective. In particular both Governments were trying very hard to complete the final step on the road to this destination by bringing the unionists into the process. The first step (that of bringing in Sinn Féin) had been completed. The Chairman said he understood everyone's frustration at the lengthy delays in getting people to this final position but the fact was that the Governments believed they were very close to doing just that. Clearly the last few days in particular had caused great anger, frustration and consternation but it was vital for everyone that the ultimate objective was kept in mind. The Chairman said he believed the indictment hearing should go ahead on the day and time proposed. It was in Sinn Féin's interest to get it out of the way.

26. The Chairman said he recalled previous discussions on indictment hearings where many, if not all the participants, had proposed that all other business be separated from any formal representations and not dealt with until that representation was heard. Surely the way forward then was to have this item scheduled, dealt with, and the process moving on to other business afterwards. The Chairman said the Governments had made clear that they wanted to file a procedural motion and it therefore seemed wiser to deal with the indictments separately so that the process could move on. The Chairman said his own feeling was that the

indictment should proceed on Tuesday. If the Governments could bring the procedural motion to the table before the indictment hearing then so be it, but there was no point in tying one issue to the other this time when it hadn't been handled this way in the past. The Chairman said he believed the best course of action would be for the Plenary to adjourn until 14.00 on Tuesday 23 September. If it was possible for the Governments to proceed earlier than this with the procedural motion then this was fine. They had made their intentions clear in this regard.

27. The SDLP, referring to Sinn Féin's earlier comments, said that the underlying issue in all of this was that the UUP would arrive next week, looking for its pound of flesh, and leave with a result which it didn't want. The SDLP said it viewed such a situation with the utmost seriousness if the UUP then used its unwanted result as a further tactical reason for not entering the process. Nobody else would tolerate this situation and while at present the process was in the middle of a procedural difficulty, which the party fully recognised, it wanted it placed on the record that it would most certainly not stand for this scenario - if it occurred.

28. The Chairman said the Governments could speak for themselves on this but he could not conceive of any circumstance where both would succumb to this - never mind any other participant. Having said that, the Chairman said the Governments had to make a good faith decision based on the evidence and facts available. The Governments had laboured over these decisions in the past and he was sure that their decision would be based on the facts and only these.

would be happy to show the relevant press statement to other participants after the Plenary adjourned. Alliance asked if

29. The SDLP said it wasn't suggesting that the Governments would do anything other than this. But what happened if any political party used this type of tactic in future - i.e. raising representations in order to stay away from the process? Sinn Féin asked whether the UUP already knew what day and time was set for its indictment to be heard. The Chairman said the UUP was not aware of any details yet. He had met with the party earlier in the day and told it that he would consult with the participants before arriving at a decision. The Chairman asked whether there was any other comment.

30. Following a brief adjournment the Chairman said he now proposed that the Plenary session to hear the UUP indictment would occur at 14.00 on Tuesday. The Chairman said his staff would notify all participants by 12 noon on Monday if there was to be a Plenary on Monday, depending on the Governments' deliberations. The Chairman added that it was his hope that all of the participants would be present on Monday, not least to obtain the latest briefing on the status of the procedural motion and any other matters. This was agreed.

31. Sinn Féin asked how all of this was to be described for public consumption since it was vital that account be taken of its own constituency etc. The Chairman said he would not be making a statement other than to communicate the arrangements for next week regarding the Plenary. He suggested to Sinn Féin that it might wish to discuss the issue with the Governments and other participants after the Plenary adjourned. The British Government said it would be happy to show the relevant press statement to other participants after the Plenary adjourned. Alliance asked if

the Governments would distribute copies of their statement to those participants not remaining afterwards. This was acknowledged. On hearing no further comments the Chairman adjourned the meeting at 19.05 and reminded participants of the arrangements for next week.

Independent Chairmen Notetakers
22 September 1997

OIC/ps82

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