

Office of the Independent Chairmen

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SUMMARY RECORD OF PLENARY SESSION - TUESDAY 17 FEBRUARY 1998 (1710) - DUBLIN CASTLE

Those present:

INDEPENDENT CHAIRMEN

Senator Mitchell
Mr Holkeri
General de Chastelain

GOVERNMENT TEAMS

British Government
Irish Government

PARTIES

Alliance
Labour
Northern Ireland Women's
Coalition
Progressive Unionist Party
Sinn Féin
Social Democratic & Labour Party
Ulster Unionist Party

1. The Chairman called the Plenary to order at 5.10pm. He thanked the parties for their patience and indicated that the meeting would continue until 8.00pm. He confirmed that he would first call on the two Governments to outline their position following which Sinn Féin would have an opportunity to respond. All other parties would then have an opportunity to make statements. This would be followed by a general discussion with Sinn Féin having a further opportunity to respond at the conclusion of the meeting. The Chairman explained that before the last adjournment Alliance had circulated a document setting a formal resolution under rule 29. He now proposed that Sinn Féin could either choose to speak before or after both Governments and Alliance made their representations.

2. Sinn Féin indicated that they wished to take up the former option. They explained that they had asked for an adjournment until 6.00 or 7.00pm. They explained that

they had not concluded their deliberations but they did now possess a draft legal opinion. They did not want to go to court. They told the Chairmen that they had passed this draft to both governments so that they could make a judgement on whether they wanted to avoid possible court action before the process got bogged down any further. They asked the Chairman to either give them more time or make his own judgement on the matter. They suggested that they could pass him a copy of the legal opinion so he could consider it. They stressed that they wanted to avoid a judicial review.

3. The Chairman explained that it would be impossible for him to judge a document that he hadn't seen as yet. He really wanted to be as helpful as possible but it was his opinion that the plenary should proceed as planned. He explained that all participants were deeply concerned about the serious situation in which the talks now were in. He had tried very hard to be as fair and accommodating as possible and undertook to review their legal opinion at the earliest opportunity after he had received it.

4. Sinn Féin indicated that they had already passed the opinion to the Chairmen's staff. The Chairman noted this. Sinn Féin acknowledged the position and explained that their legal advice suggested that the assertions made the previous day by the British Government were not a basis on which to proceed.

5. The Chairman commented that that was what he had expected Sinn Féin's legal opinion to say. He explained that as a lawyer and former judge, he understood and respected the right of Sinn Féin and any other party to avail itself of legal counsel to advance its cause. But this was a political process not a legal proceeding. The objective of the political process was to achieve a negotiated settlement. The process must be based on fairness. A fundamental fairness must be combined with the practical need to make progress in the process. He said he had made his ruling in good faith. If a court were to find that ruling in error, so be it. The Chairman emphasised that he did not in any way want to denigrate or to imply any lack of respect for Sinn Féin's Counsel's opinion.

6. Sinn Féin said that they did not want to raise any questions whatsoever over the Chairman handling of the process. They had made the point earlier about all the energy they had expended in getting the talks - if others had put so much energy in advancing the negotiations as they were now expending in getting Sinn Féin out, the process would now be on so much further. Sinn Féin was very disappointed that the process had now got bogged down. They were not pushing a legal point but wished to emphasise the integrity and self respect of their electorate and of their own integrity. The decision that the British Government had taken to indict Sinn Féin was based on the assertion that they had demonstrably dishonoured their commitment to the process. Taking the decision to eject Sinn Féin now was allowing the British

Government to be both judge and jury and Sinn Féin were quite certain that all participants did not want to be left in this position. Sinn Féin had a responsibility to ensure that, if they were going to be ejected from the process, that it should be on a fair and equitable basis. They explained that their legal action could go two ways. They could either take legal action if they were ejected or opt for legal action now. Sinn Féin explained that the latter option was the one they were considering and the one that they had been advised to follow. They told the Chairman that if he decided to proceed before reading they may have to ask for a short adjournment to reconsider quickly their position. They had asked for more time and would have liked to discuss the issue with the Chairman.

7. The Chairman explained that if and when a court with competent jurisdiction and authority compels any action, he would comply. But he said he should not make decisions based on the opinion of one lawyer or law firm. Based on past experience, every party could find a lawyer to give a different opinion.

8. Sinn Féin formally asked for a short adjournment. The Chairman explained that Alliance had sought recognition and suggested that they should be allowed to speak if Sinn Féin had no objection. Sinn Féin replied by asking Alliance to withdraw their request to speak. Alliance replied by indicating that they were not prepared to withdraw because Sinn Féin had, in everything that they have said up to now, carefully avoided

reference to the representation made by Alliance which had been on record since the previous day. Sinn Féin may choose to ignore the indictment but it was part of the process. Alliance wished to draw this fact to Sinn Féin's attention. Sinn Féin said it would not agree and stated that the assertions of the British Government took precedence.

10. The Chairman explained that under Rule 20 of the Rules of Procedure, requests for adjournments of 20 minutes duration were to be routinely granted provided the rule was not abused. He stated that Sinn Féin's request for adjournment was not unreasonable and he adjourned the meeting at 5.28pm until 5.50pm.

Independent Chairmen Notetakers
10 March 1998