

IN CONFIDENCE

F-110

From: Robert Travis
Constitutional & Political Division
2 March 1998

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- 5 MAR 1998

NC/4/3

PS/Secretary of State (L&B)
PS/Mr Murphy (B&L)
Mr Thomas
Mr Bell
Mr Stephens
Mr McCusker
Mr Brooker
Mr Hill
Mr Ferguson
Mr Whysall
Mr Johnston

STRAND TWO: MINUTES OF MEETING, 16 FEBRUARY 1998

Attached are the minutes of the above meeting as recorded by the Office of the Independent Chairmen.

(Signed)

ROBERT TRAVIS
Castle Buildings Ext 22282
Millbank Ext 0255

IN CONFIDENCE

**SUMMARY RECORD OF STRAND TWO MEETING -
MONDAY 16 FEBRUARY 1998 AT 1112 - DUBLIN CASTLE**

CHAIRMEN: Senator Mitchell
Mr Holkeri
General de Chastelain

THOSE PRESENT: British Government
Irish Government

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

1. The Chairman convened the meeting at 1112 and called upon the Irish Government to make a welcoming statement.
2. The Irish Government said it wished to welcome everyone present to Dublin Castle - a building which symbolised many different aspects of history with some parts of its original structures going back 800 years and others acquiring more modern refurbishment. The Irish Government said it viewed the building as a testimony to the handling of the power of change which was, in many aspects, similar to what the participants were grappling with in the negotiations. It said it hoped all participants would find the surroundings conducive to progressing the business of the talks and if any delegations required issues to be addressed in order to make their stay more comfortable, the Irish Government would be happy to oblige.

3. The Chairman said he had only arrived in Dublin a few minutes previously. He understood the two Governments wished to present a matter for consideration and then asked the British Government to proceed with this.

4. The British Government said it had been its consistent position that participation in the negotiations required total and absolute commitment to the principles of democracy and non violence set out in paragraph 20 of the Report of the International Body. Any party which demonstrably dishonoured its commitment to those principles ceased to be eligible to participate in the negotiations. The British Government said that in this connection, colleagues around the table would recall that, in their determination of 24 September 1997, the two Governments reiterated that they would expect the Republican Movement as a whole to honour the commitment to the Mitchell Principles affirmed by Sinn Féin. Applying that same logic, they concluded on 26 January 1998 that the UDP was no longer entitled to participate in the negotiations on account of UFF involvement in sectarian murders. The British Government said that shortly after 11pm on 9 February two gunmen shot dead Brendan Campbell and seriously wounded his female companion in Brookland Street, Belfast. Just before 1pm the following day a gunman approached a parked car in Dunmurry, Belfast and opened fire, killing the occupant, Robert Dougan, before making his escape in a waiting car. Both murders, like others in recent weeks, were deplorable and inexcusable. The British Government said they condemned them without reservation.

5. The British Government said the Chief Constable's firm view was that both these murders were carried out by the Provisional IRA. His assessment was based on intelligence information available to him, and on evidence obtained in the course of the RUC's investigations to date into the two crimes. Criminal charges had now been preferred in respect of Mr Dougan's murder, and it was therefore not appropriate to go into any detail on that. If any more was to be said at this stage it could prejudge the judicial process in that case

and breach the Contempt of Court Act. The British Government said it could confirm that the weapon used in the murder of Mr Campbell had also been used in a previous murder - that of Mr Johnston in December 1995 - which was claimed by Direct Action Against Drugs, which the Chief Constable had confirmed was a cover name used by the Provisional IRA. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The British Government said these considerations clearly raised the questions of whether Sinn Féin was any longer entitled to participate in the negotiations. It therefore proposed that the Chairman should make appropriate arrangements for a plenary meeting later today at which the parties could express their views on what had been said and on any observations, oral or written, which the Sinn Féin delegation might wish to make.

6. The Irish Government said it wanted to make clear that it was deeply conscious of the extreme gravity of the situation now confronting the talks and the peace process as a whole. It was very sorry that, as on the first day in London, everyone found themselves having to turn their attention away from the substantive business of negotiation. But it was clearly necessary. The Irish Government said it was totally opposed to, and condemned utterly, killings of any person, and for any purpose. It equally repudiated the use of the threat of violence for political purposes. In addition, the principles of democracy and non-violence were the basis on which the talks were founded, and were fundamental to the integrity of the process. Any charge that they had been demonstrably dishonoured was a most serious one, and required very careful consideration. Moreover, as everyone was aware, this procedure had been invoked on a number of occasions. It was important that the rules were applied equitably and consistently.

7. The Irish Government said it was anxious to hear the views of all parties around the table on this matter, and in particular that of Sinn Féin. It was important that the party be given every chance to set out its position, including in relation to the two killings in question and to the Mitchell Principles. As the British Government had said both Governments would then review all the elements involved and decide whether, and if so what, appropriate action might be required.

8. Sinn Féin thanked the Irish Government for its welcoming opening remarks and for the statement it had just made. The party said it had a number of questions which it wished to address to the British Government. It hoped the participants would be patient while these issues were placed before the British Government. The party said it had sought legal opinion and began by saying that it had been surprised that the British Government had made an oral representation. The party said it had sent a letter to the British Government when it had first learned of a possible representation being raised and it read out the contents of this correspondence. Sinn Féin said it hadn't received any written response to this. It had then written again a day or so later.

9. Sinn Féin said it wished to have absolute clarity and transparency on the proceedings and therefore proposed that the Chairman bring in a stenographer to cover the exchanges on this issue. The party said that, in its view, the wording of Rule 29 implied that a written representation had to be presented. The party said it wished to look at a formal written representation. It was not fair for the British Government to act in this way by making an oral statement and then circulating this to participants. The party said it might want to make a written response to such a representation and therefore it didn't want the British Government's representation to be circulated since it might not be a proper one. Sinn Féin asked whether the speaking note was the formal representation from the British Government against it?

10. The British Government said that both letters from Sinn Féin had been responded to. It also remarked that the statement made last Thursday by the Chief Constable was the basis for making such a representation today and that its earlier speaking note given to the meeting did form the basis of a formal representation under Rule 29. Sinn Féin said that the British Government had said in its letter that it would raise this representation at the beginning of the session under the Strand Two format but now a Plenary was being suggested. Sinn Féin said it was concerned by this and that if the whole issue was going to be dealt with seriously it believed it was asking the Chairman to do what was reasonable.

11. The British Government said the session was not a kangaroo court. It was following the procedures laid out in the Report of the International Body and its opening remarks were meant as a formal representation under Rule 29. The British Government referred to Sinn Féin's request for a stenographer, stating that it would abide by any ruling of the Chair, and added that it believed the hearing of representations under Rule 29 should be conducted in the same manner as that which applied in the UDP case in London three weeks earlier. It was on this basis that the British Governments opening remarks (and hence its formal representation) had been circulated to the Chairmen and other participants. It added that it believed many questions from Sinn Féin had been answered.

12. Sinn Féin said there was a considerable difference between its position and that of the UDP. The British Governments' representation had been brought forward on the basis of two killings. The party disavowed all killings and continued to make strenuous efforts towards finding a lasting peace. There was, however, a further question; why had no representation been made with regard to the two killings prior to Mr Campbell and Mr Dougan occurring - Mr Conway and Mr McColgan. The British Government

responded saying it had recommended that placed the issue be handed in plenary format but would be content to continue with it in Strand Two if so agreed.

13. The Chairman said that the question before the meeting was whether the statements by the Governments, circulated as a speaking note, constituted a sufficient basis for the Chair to convene a session of the Plenary to consider the matters raised therein. It was best not to get into the substantive discussion here in Strand Two. An adjournment would give the Chairman time to discuss with Sinn Féin and with other parties what procedure should be followed.

14. Sinn Féin pointed out that the allegation against it had been made by the British Government, not by both Governments. The party had asked that the document not be circulated before it had had a chance to examine it, but the British Government had circulated it anyway. The party wished to protest about this, and asked for answers to the reasonable questions it had posed about the conduct of proceedings. The Chairman said that Rule 29 required the Chair to circulate any formal representations received to the other participants.

15. Sinn Féin reminded the Chairman of its request that a stenographer be present at the meeting to discuss this issue. The party asked the Chairman if, as it seemed, he had decided that the British Government's speaking note constituted a formal representation, and whether it had been shown to the Chair before the meeting? The Chairman said he had not seen it beforehand, but the Rule did not say that he should. Nor did the Rule prescribe the form a formal representation should take. He had just seen the note from which the British Government had spoken, and he judged it sufficient under the Rule to stand as a formal representation. Sinn Féin said that, having just seen the document, it did not appear to be a proper representation within the meaning

of Rule 29. Given the seriousness of the situation, the party's long work to create the conditions for a peace process and its integrity on this issue, and given that the predetermined outcome of the British Government's submission was to eject the party, the speaking note circulated could not be said to constitute a substantive, formal representation. Sinn Féin accepted, of course, that where there was a substantive allegation it was a matter for the Plenary, rather than Strand Two, but the party wished to establish with clarity what was the basis for these allegations. The party said the real basis was expediency: the UUP had told the British Government that it would leave the talks if Sinn Féin was not expelled.

16. Alliance stressed that these were questions for the Plenary, not Strand Two. The party had indicated to the Chair and to the British Government that the first item of business today should be a statement by the Government on the security situation. The British Government had delivered that statement, and paragraph seven of its speaking note had spelt out the issue for everyone. There were two separate elements to be considered: the involvement of the IRA in the recent killings, and Sinn Féin's own conduct. Alliance would give its view on both these aspects in the Plenary. The Chairman said that if and when a Plenary was convened, each party would have the opportunity to air its views. Rule 29 requires the governments to consider the views of participants.

17. Sinn Féin noted that the Chairman had given an initial ruling that the British Government's opening remarks constituted a proper representation, but the party did not believe it should form the basis for discussions until this had been discussed and established. The British Government had made a representation about the killings of Mr Campbell and Mr Dougan. Why did the Government make no representation on the deaths of Liam Conway and John McColgan? The Chairman noted that Sinn Féin had several times used the expression a "proper" representation. The Chair had ruled that the

document before it was a formal representation within the meaning of Rule 29. Nothing more was required by the Rules. Whether it was sufficient as a basis for decision on the expulsion of Sinn Féin was a separate matter. The ruling was limited to the question whether the British Government's presentation constituted a formal representation under Rule 29.

18. Sinn Féin noted that the British Government document did not in fact say that the party had demonstrably dishonoured its commitment to the Mitchell Principles, and asked if the Secretary of State herself in fact believed this to be the case? The Chairman said he was not making his ruling on the narrow basis of the exact wording of the speaking note: it was a fair reading that it raised a question to be answered, and his ruling did not go beyond that. The British Government said it had not answered the earlier point about the Conway and McColgan murders only because it had wished to leave substantive matters to the Plenary. The fact was that no information or case had been brought to the Government that the perpetrators of these murders had a connection to any party at the talks. The British Government said its opening remarks had been based on a view that the matters contained in it merited being brought before the talks process. The Governments would form their own assessment of whether Sinn Féin had demonstrably dishonoured its commitments after hearing the party's case, and the views of other participants, in the Plenary.

19. Labour said that the meeting was clearly getting into the substantive issues, and formally proposed an adjournment to the call of the Chair. The Chairman said that was his intention, but asked Labour to let him take a last question from Sinn Féin first. Sinn Féin asked why the British Government had given no assessment of responsibility for the murders of Conway and McColgan. Had the RUC given no assessment of who had shot these men? The British Government said that it had no information indicating responsibility by any organisation linked to a party in the process.

20. The Chairman said he would now accede to Labour's request, and call an adjournment. He wanted to meet first with Sinn Féin, and then with any other party that wished to discuss the issue of holding a plenary to discuss the matter, before proceeding further. The Chairman adjourned the meeting at 1150.

**Independent Chairmen Notetakers
18 February 1998**