

# NATIONAL ARCHIVES

## IRELAND



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6.1.86*

*M. Keenan  
P. de Saun  
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*Tanquerite  
by meeting  
to make for Justice  
of Home Affairs*

*W. Ward A-1  
A-1 Sect.*

*[Signature]*  
*3/1/86*

Special Meeting of the Intergovernmental Conference

London 30 December 1985

*S 24423*

1. The meeting began at the NIO at 14.00 hours and lasted for about three hours.

The main topics discussed were:

- the political situation in the light of the by-elections
  - the "supergrass" system (accomplice evidence) in Northern Ireland
  - the hunger strike at the Maze Prison and how to defuse it
  - the Joint Statement
- and
- the place and date for the next regular meeting of the conference.

There was no agreed agenda to such.

2. Mr. Barry began with a general description of the political situation as in the briefing note.

On the hunger strike the British side gave details of the two prisoners' medical condition.

Tohil had weighed 73k. and had lost 7k.

Stenson had weighed 60k. and had lost 3k.

There was no medical concern by the doctors at the prison.

Tohill had made no mention of any previous medical condition.

The prison doctors visited him each day and saw no reason for special concern.

Mr. Barry gave details of our information about Tohill's physical condition including his medical history (ulcers).

3. The British side said the conditions made by the hunger strikers were -

- early date for appeal hearing
- review of the supergrass appeals.

There was no third condition (as had been put to us).

Mr. King said that it was likely that the appeal could be heard fairly soon depending on

- availability of Crumlin Road Court
- availability of Counsel
- the prior hearing of the Black appeal early in January (and other appeals pending)

4. The British side pointed out that while the notice of appeal had yet to be submitted by the prisoners' solicitors it seem likely that the grounds for the appeal would be based on Kirpatrick's testimony only. If so, this would facilitate the hearing. The likelihood was that a provisional date could be set by the Courts within two to three weeks and that the appeal itself could be begin to be heard within five to six months. This was the best assessement that they had from the Courts' service. If however there had to be a full transcript of the evidence this could add a further five to six months delay.
  
5. There was some discussion of how this assessement could be conveyed to the prisoners or their solicitors. Nods and winks were dangerous unless they were based on facts. Mr. Barry mentioned Bishop Cahal Daly as a possible channel. The British side said that in general Father Murphy the prison chaplain was being kept informed though not of the full details of the assessment as given now. As soon as the Court service was ready i.e. in two or three week's time, then the solicitors of the prisoners would be informed. Michael Nicholson has also discussed the question with the Civil Service. They had been doing the background work. There were still unknown factors for instance the availability of Counsel.
  
6. Mr. King said that it was policy to hasten the appeal procedure and they had already made much progress by comparison with the past. This was a point in natural justice. Often in such cases there already had been long periods of detention before trial. Mr. King made the point several times of the separation of the powers of the Courts from his functions and also at not at not appearing to give in to the hunger strikers. Nevertheless he was fully aware of the sensitive political issues involved. Mr. Barry asked about "observers" being present at the appeal (e.g. arranged through the catholic church) and was assured there was no problem.

7  
Mr. Barry raised the whole issue of the "supergrass system" on the lines in the brief and there was a long exchange, with Mr. King emphasizing that there was no 'system'. The question of the power of the Director of Public Prosecution to dismiss supergrass evidence (as he had done in the past in the case of 'confession evidence') was raised and Robert Andrews mentioned that he was certain that the DPP had used his right to dismiss such evidence in the past. It was the duty of the DPP to put forward evidence only if he thought it would stand up in Court. There was a discussion of the role of the DPP in relation to the Attorney General and the NIO. Mr. Barry put forward the need to give some signal that action was happening. The appointment of Mr. Nicholson which we understood was forthcoming should be announced as soon as possible. As regards the proposed meeting of the Attorneys General this would be looked at before the next regular meeting of the conference. The British side was not yet ready with their examination to decide who (e.g. possibly Lord Hailsham) should be involved. The sub-group (Messrs Brennan and Ryan - "to consider procedure to establish machinery to further the issues identified in Article 8") would report to the next meeting of the conference.

8. Joint Statement

The drafting which had begun between the two Joint Secretaries on Sunday, had not been finalised before the meeting and caused considerable difficulty. Mr. King insisted that the points being discussed should be specifically mentioned in the Communique. This was the basis on which he had agreed to the meeting. Finally agreement was reached. Mr. King and Mr. Barry agreed to make no further elaboration other than what was in the statement. Mr. King mentioned that his announcement of sending the Spearhead Army force of 550 troops to Northern Ireland that morning would keep the press going for the time being. There was no detailed discussion of internal security (including the attacks on RUC/Army posts) nor of the arrests of the Sinn Fein workers over the weekend.

9. Date of Next Meeting and Place

There had already been agreement in principle to 9 January. The problem was the place (the British side wanting London and the Irish side wanting Belfast). In the end four options emerged.

- hold in London on 9 January
- hold in Belfast (Stormont) on 9 January
- hold in Belfast (Aldergrove Airforce base) on 9 January
- hold in Belfast (Stormont) in second week February.

(the possibility of the meeting being held on 10 January was discussed) Mr. King could not agree to Stormont on 9 January for security reasons. He was firm on this.

Mr. King made the point that we would not be ready with the various papers/submissions promised at the last meeting. The Irish side said that they would have ready at least outlines of several papers by 5 January.

10. Results: The first part of the meeting on the hunger-strike yielded useful results. The British side was obviously concerned, and had done their home work to give a useful scenario for a possible solution. As regards the more general discussion of Article 8 issues - including our proposal for a meeting by the Attorneys General - the British side did not seem ready yet to make responses to our proposals.
11. A copy of the final version of the Speaking Notes and also the Joint Statement are attached. A full note on the meeting is being prepared.

*Boydell*  
31/12/1985