



10 DOWNING STREET

From the Private Secretary

29 May 1981

Dear Stephen,

Prison Protest in Northern Ireland and
European Commission on Human Rights

The Prime Minister has seen your letter to me of 28 May on this subject. I should say at once that she was extremely unhappy that, given her views on the questions at issue, there had been no discussion of the proposals in your letter during her visit to Belfast yesterday.

The Prime Minister has made the following comments on your letter:

- (a) The representative who goes to Strasbourg on Monday - or one of the representatives - should be a legal expert fully conversant with the relevant law;
- (b) It must be made clear that, as the Attorney General said during the meeting with the Prime Minister on 18 May (Clive Whitmore's letter to you of 19 May refers), we regard our position on admissibility as fully preserved and that we shall, if necessary, be prepared to argue our case at a later date;
- (c) As set out in the attachment to Clive Whitmore's letter under reference, HMG are of course prepared to facilitate the work of the ECHR in examining complaints under Articles 8 and 13 of the Convention and in ascertaining the relevant facts. However, as far as we are concerned, the only complaint at present extant is that under Article 8, relating to correspondence. In the absence of any other complaint, the Prime Minister assumes that action under Article 13 will relate to Article 8;
- (d) As far as the friendly settlement procedure is concerned, HMG have no proposals to bring forward. We assume that if anyone else has proposals to make these will be submitted to the ECHR in the normal way;

/ (e)

- (e) The Prime Minister has no objection to the points set out in the "bout de papier" attached to your letter being put across provided it is made crystal clear that our making them in no way implies that they are the subject of negotiation;
- (f) You may think that, in the light of (d) and (e) above, the final two sentences of the brief summarised in your letter should read as follows:
"The Government, while standing firm on these issues, has of course made major improvements in prison conditions. These are summarised in the attached "bout de papier". We have no proposals of our own to put forward under the friendly settlements procedure. We assume that proposals which any other party wishes to put forward will be submitted to the Commission in the normal way."

The Prime Minister has asked me to make it clear that while she is prepared to see the ECHR carrying out their duties in the manner outlined above, and to facilitate their activities, she is not prepared to appear to be seen to be negotiating about prison conditions through the ECHR. She would regard it as particularly damaging for this impression to be created in the immediate aftermath of her visit to Belfast.

I am sending copies of this letter to John Halliday (Home Office), Roderic Lyne (Foreign and Commonwealth Office), David Wright (Cabinet Office) and, together with a copy of your letter, to Jim Nursaw (Law Officers' Department).

Yours sincerely

Nicholas Alexander.

Stephen Boys-Smith, Esq.,
Northern Ireland Office.

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Michael Alexander Esq
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LONDON
SW1

Prime Minister (1)

28 May 1981

Dear Michael,

May I tell you that you would be wanted for them to proceed as they propose?

No - see
Ant
now.

PRISON PROTEST IN NORTHERN IRELAND AND THE EUROPEAN COMMISSION OF HUMAN RIGHTS

At the meetings with my Secretary of State on 18 May, the Prime Minister indicated that she had no wish to see the Government involved in the "friendly settlement" procedure which is one of the steps normally gone through by the European Commission of Human Rights (ECHR) in dealing with complaints under the Convention.

The Commission has now written formally to inform the Government that it has declared admissible the complaints in the Maze case under Articles 8 and 13, and has invited the Government so submit any proposals we may wish to make with a view to arriving at a "friendly settlement". In this connection, they have also invited us to send someone to an informal meeting with them next Monday (they are inviting representatives of the other side to meet them separately). These steps are part of the normal procedures of the Commission. My Secretary of State has been considering how we should respond to this invitation.

It is essential, in his view, that we handle the ECHR's involvement in the Northern Ireland prisons issues as one of the many strands in our presentation of the Government's case, at home and abroad, over the weeks leading up to the next series of hunger strike deaths. The substance of our case is firmness (of course), coupled with a reasonable approach to all who share our concern at the futile loss of life in Northern Ireland. It is with this overriding consideration in mind that he assesses our options as follows:

- (a) to turn it down flat. This would give the other side the opportunity (which they would be sure to exploit) to blame us

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publicly for having killed any possibility of ending the prison impasse, and would have a damaging effect on the Catholic section of the Northern Ireland community. It would also, in the view of the FCO, be bad for our general relations with the Commission (with whom we have a wide range of dealings going far beyond NI);

(b) we could seek a postponement on the ground that we need more time to think. That would give the impression that we were contemplating proposals to put forward, and, since we are not, it could only generate later disappointment; and

(c) we could seek a way of responding positively which will nevertheless avoid any danger of our being sucked into any kind of negotiation or give the impression that we were seeking a "friendly settlement".

(c) above seems the best course, not because we are in the game of looking for a compromise, but in the interests of maintaining good relations with the Commission and, more crucially, because of the need to counter the main thrust of PIRA's propaganda. The Provisional leadership is manoeuvring, cynically but effectively, to direct the frustration and anger of the Catholic community, arising from the hunger strike, against the Government, representing it as intransigent and unearring: despite the fact that it is the Government which has demonstrated its flexibility and humanitarian concern by adjustments to the prison regime while the Provisionals have remained dedicated to achieving their five demands which amount to political status. The Provisionals must not be allowed to succeed in their attempts to misrepresent the Government's position and so alienate the Catholic community. This has implications for the outcome of the prisons protest as well as for the security situation generally. The handling of the Human Rights Commission's involvement in the case takes place against this background. It is necessary to ensure that, if the Commission is seen to be unable to make progress, it is the intransigence of the Provisionals which has brought this situation about. The Provisionals

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are likely to be engaged in trying to ensure exactly the opposite. The Government must not play into their hands by bringing the process to a halt.

My Secretary of State therefore proposes that we should send one or more officials to Strasbourg on Monday, briefed to speak on the following line - a line to which they must adhere strictly. It would run as follows:

.....

The Government has from way back been very flexible in its readiness to improve the regime for all prisoners in the interests of being humanitarian. (At this point they would offer the Commission a "bout de papier" (copy annexed) which would set out the various steps taken over the last 18 months (most in response to the Commission's own criticisms of last June) to make available better conditions to both conforming and protesting prisoners). However, although flexible, there are certain points of principle on which the Government, for moral and practical reasons, has not been, and will not be, prepared to budge, viz. no differentiation for particular groups of prisoners; and no ceding of control by the authorities to the prisoners over day-to-day life in the prison. (Here it would be pointed out that the first half of the "bout de papier" consists of a statement of these principles). Thus the Government, while standing firm on certain important issues, has in fact gone far to meet the case for improved conditions, whereas the protestors have not moved one inch from their demands. We have no proposals of our own to put forward, but we should - subject always to our points of principle - be prepared to consider anything the other party may put forward. No No No,

This implies that if they moved we would move.

In this way my Secretary of State believes it will be possible to:

- (a) maintain our good relations with the Commission;

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It doesn't
strike
balance at
all

(b) strike the right balance between firmness on points of principle and a readiness - which we have already stated publicly - to consider proposals from responsible bodies (although we have none of our own to offer);

(c) demonstrate how far we have already moved to improve the prison regime in Northern Ireland, and how inflexible the other side have been; and

(d) reassure the Catholic population in Northern Ireland (and many others abroad - eg the Irish Americans) that we are not dismissive of the interests of the prisoners with whom they have natural sympathies.

As time is short, I should be grateful if you could let me know by early tomorrow whether the Prime Minister is content with this proposal.

I am sending copies of this letter to John Halliday (Home Office), Roderick Lyne (FCO) and David Wright (Cabinet Office).

Yours,
S W

S W BOYS SMITH
Private Secretary

This letter must have been written and the policy decided before we left Belfast to-day. I am utterly dismayed and very angry that at no time to-day was I consulted with me even though Sirs, PWS & other know how strongly I felt about it. I propose the following course of action.

I had a highly skilled rep. to Strasbourg who is fully conversant with the law.

② Review the legal point on a drawing by -

to be argued in Court - (This point
you remember was made by the A.G.)

3) In the meantime, as the Commission
itself has only raised the question of possible
infringement of ~~one~~ human rights, we are of course
prepared to consider a friendly settlement
with regard to the - i.e. correspondence.

We have no further proposals to make
in view of the way that has already been
done but will consider proposals on that issue.

4) Should however the Commission wish to
have facilities to find the facts they
will of course be granted wholeheartedly &
immediately.

5) Any proposed charges must apply
to all prisoners in North Ireland. There can be
no question of special status for some.

MS.



ECHR - MAZE PROTEST - HMG POSITION PAPER

Principles

HMG has consistently asserted certain principles in respect of prison administration on which it would not be prepared to compromise. These principles are:-

- (1) no political or special category status for any prisoners. Any differentiation of treatment of a certain group or class of prisoners in Northern Ireland is objectionable under this principle. This principle was endorsed by the ECHR in its Partial decision of June 1980.
- (2) The prison authorities must remain fully in control of the prison administration and of the major elements of day-to-day life in the prisons.

Subject however to those principles. HMG has shown itself to be flexible and willing to introduce changes in the prison regime for both conforming and protesting prisoners. The following changes have been introduced since the ECHR made its last investigation into the Maze and action by HMG to improve the conditions in which the protesting prisoners presently live continues.

Additional privileges made available to protesting prisoners

- | | |
|---|-----------|
| (1) Provision of plimsolls, vests and shorts for exercise.) | } 26.3.80 |
| (2) Weekly letter in and out instead of monthly. | |
| (3) Two visits per month instead of one. | |



- (4) One extra hour's physical recreation each week in the gymnasium.
 - (5) One evening's association per week.
 - (6) Availability of "closed" visits to prisoners who refuse to be searched.
 - (7) Books and newspapers made available in each wing.
 - (8) Compassionate home leave on death of a near relative made available on the same basis as for conforming prisoners.
- (9) For those prisoners on a "clean" protest:
- (i) the rate of loss of remission was halved as compared with those on the "dirty" protest.
 - (ii) A special monthly parcel is allowed containing up to 4 lbs of fruit and toilet articles.
 - (iii) One hour extra exercise each day is allowed.

August/
September
1980

January
1981

Ex-protesting prisoners

Following a review a partial restoration of lost remission is now being given to those who have discontinued their protest and are now fully conforming.

All prisoners

All prisoners now benefit from the Government's decision to abolish prison uniform as such and to substitute prison-issue civilian-style clothing which is available as a personal issue to each prisoner.

Despite the action in January last of a number of protesting prisoners involving the destruction of cell furniture and damage to cells, all protesting prisoners have now been issued with beds and bedding, tables and chairs and the issue of other cell furniture continues. At the request of protesting prisoners, writing material and pens were provided as were additional books and newspapers.