

## NATIONAL ARCHIVES

### IRELAND



<b>Reference Code:</b>	2004/21/628
<b>Title:</b>	High Court statement of claim by Kevin Boland in his case against the government of Ireland in regard that aspects of the Sunningdale Agreement are repugnant to the Constitution of Ireland.
<b>Creation Date(s):</b>	December, 1973
<b>Level of description:</b>	Item
<b>Extent and medium:</b>	6 pages
<b>Creator(s):</b>	Department of the Taoiseach
<b>Access Conditions:</b>	Open
<b>Copyright:</b>	National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

had 17/1-73.  
42.

THE HIGH COURT

BETWEEN:

KEVIN BOLAND

PLAINTIFF

--and--

AN TAOISEACH

THE MINISTER FOR

FOREIGN AFFAIRS and

THE ATTORNEY-GENERAL

DEFENDANTS

STATEMENT OF CLAIM

Michael J. Gleeson,  
Solicitor,  
Rossa House,  
77 Marlborough Road,  
Dublin. 4.



THE HIGH COURT  
KEVIN BOLAND

PLAINTIFF

-and-

AN TAOISEACH  
THE MINISTER FOR FOREIGN  
AFFAIRS and THE ATTORNEY-  
GENERAL

DEFENDANTS:

STATEMENT OF CLAIM

Delivered the       day of  
December, 1973 by Michael J.  
Gleeson, of 77 Marlborough  
Road, in the City of Dublin,  
Solicitor for the Plaintiff.

1. The Plaintiff is a Civil Engineer and Farmer. He is an Irish Citizen and resides at Redgap, Rathcoole, in the County of Dublin.
2. The first-named Defendant is An Taoiseach and the second-named Defendant is the Minister for Foreign Affairs and both are members of the Government of Ireland. The third-named Defendant is the Attorney General of Ireland.
3. The Plaintiff is a former member of Dail Eireann and was a Minister of State for 13 years. He is and was at all material times the Chairman of Aontacht Eireann - Republican Unity which organisation is a registered political party under the provisions of the Electoral Act, 1963 and the membership of this party includes Irish Citizens residing in that portion of our national territory over which the British Government still claims sovereignty and jurisdiction.
4. On the 6th, 7th, 8th and 9th days of December discussions took place at a Conference held at Sunningdale in England between members of the Irish and British Governments and other interested parties. Among the



members of the Irish Government who attended the said discussions were the first and second-named Defendants and the third-named Defendant was also present thereat.

5. At the conclusion of the said discussions a document entitled "Agreed Communique" was issued at Sunningdale aforesaid. The said document which contains 20 paragraphs sets forth the terms of an agreement purporting to have been made "between the British and Irish Governments and the parties involved in the Northern Ireland Executive (designate)" at the said Conference.

6. The Plaintiff while in broad agreement with some of the provisions contained in the said "Agreed Communique" and in particular with the provisions relating to the setting up of a Council of Ireland contained in paragraphs 7, 8 and 9 thereof and with the provisions relating to the better protection of human rights in Ireland contained in paragraph 11 thereof, is gravely concerned with certain of the other provisions of the said Communique and purported agreement which appear to him to be an infringement of the territorial sovereignty of Ireland and repugnant to the provisions of the Constitution of Ireland and in particular to the provisions of Articles 1, 2, 3, 4, 5, 6 and 34 thereof.

7. The said "Agreed Communique" recites the terms of an agreement entered into inter alia between the British and Irish Governments which said agreement is hereinafter referred to as "the said agreement".

8. Paragraph 5 of the said agreement is repugnant to the Constitution and in particular to Articles 1, 2, 3, 4, 5, 6 and 34 thereof in that:-

- (a) it acknowledges that a portion of Ireland therein described as "Northern Ireland" is part of the United Kingdom.
- (b) the portion of Ireland therein described as



"Northern Ireland" cannot be re-integrated into the national territory until and unless a majority of the people of an area described as "Northern Ireland" indicate a wish to become part of a United Ireland;

- (c) it purports to deprive the Irish people as a whole of the right to national self-determination and to determine the status and territorial sovereignty of the Irish nation;
- (d) it purports to limit the national territory of the Irish nation to a portion of the island of Ireland;
- (e) it prejudices the right of the parliament and Government established by the Constitution to exercise jurisdiction over the whole of the national territory;
- (f) it purports to impose British nationality and citizenship upon a section of the Irish people residing in an area described as "Northern Ireland" who are now and were at all material times citizens of Ireland;
- (g) it precludes the Courts set up under the Constitution from exercising jurisdiction over the whole island of Ireland.

9. By entering into the said agreement the Defendants herein as representing the Irish Government agreed to matters, engagements and arrangements which were repugnant to the Constitution of Ireland.

10. By formalising the said agreement or a similar agreement the Defendants herein as representing the Irish Government would be usurping the functions of:

- (a) Oireachtas Eireann  
and/or
- (b) the people of Ireland whose exclusive right it is to amend the Constitution.



11. By registering at the United Nations the said agreement or a similar agreement the Defendants herein as representing the Irish Government would be acting unconstitutionally and usurping the functions of:

(a) Oireachtas Eireann,

and/or

(b) the people of Ireland whose exclusive right it is to amend the Constitution.

12. The matters dealt with in the said agreement are important questions of national policy which should only be decided by the people of Ireland.

13. By entering into a formal agreement pursuant to the terms of the said agreement and/or by registering the said agreement or any similar agreement the Defendants as representing the Irish Government would be prejudicing and/or pre-empting the rights of Oireachtas and the Irish people as inshrined in the Constitution of Ireland.

14. It is apprehended that unless restrained by Order of this Honourable Court the Defendants as representing the Government of Ireland propose to enter into a formal treaty with the British Government embodying some or all of the provisions of the said agreement and propose to register the said agreement or a variation thereof at the United Nations under international law thus doing irreparable damage to the rights of Oireachtas Eireann and the people of Ireland.

15. Accordingly the Plaintiff claims:-

(i) A Declaration that the signing of any agreement, formal or otherwise, by or on behalf of the Government of Ireland in the terms of the document entitled "Agreed Communiqué" wherein are set forth the terms of an agreement purporting to have been reached "between the British and Irish Governments and the parties involved in the Northern Ireland Executive (designate)" at Sunningdale in England on



the 6th, 7th, 8th and 9th of December, 1973 and in particular of paragraphs 5,6 and 20 thereof is inconsistent with and repugnant to the provisions of the constitution of Ireland and in particular to the provisions of Articles 1,2,3,4,5,6 and 34 thereof.

(ii) A Declaration that no agreement abrogating or otherwise involving charges in the Constitution of Ireland such as those contemplated in the said "Agreed Communiqué" and in particular paragraphs 5,6 and 20 thereof shall be entered into or acted upon by the Government of Ireland, without the prior consent of (a) Oireachtas Éireann, and (b) the people by referendum.

(iii) An Injunction to restrain the Government of Ireland its servants and agents from acting upon or implementing any part of the said hereinbefore mentioned "Agreed Communiqué" and in particular:

(a) the signing "at the formal stage of the Conference" of the said purported agreement, and/or

(b) the registering of the said purported agreement "at the United Nations".

(iv) An Injunction to restrain the Government of Ireland its servants and agents from entering into any agreement or other arrangement which would have the effect of limiting the exercise of sovereignty over any portion of the national territory or of prejudicing the right of the Parliament and Government of Ireland to exercise jurisdiction over the whole of the national territory.

(v) Such further and other reliefs as to this Court shall seem meet.

(vi) Costs.

ANTHONY WALSH  
NOEL CLANCY  
SEAMUS SORAHAN  
SEAN MacBRIDE,