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Ref. A04716

PRIME MINISTER

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Cabinet: Parliamentary Affairs

The Chancellor of the Duchy of Lancaster can give the Cabinet his provisional plans for the business in the House of Commons in the week beginning 27th April.

Fermanagh and South Tyrone By-election

Background

2. Mr. Robert Sands was elected as MP for Fermanagh and South Tyrone by a small majority. When the Cabinet considered that possibility at their last meeting you summed up the discussion by saying that, subject to further study of the legal position, the best course appeared to be for the Government to move a motion expelling Mr. Sands from the House as soon as the writ had been returned and then to introduce a short Bill restoring the position on statutory disqualification substantially to what it had been before 1967.

3. Since then there have been two meetings of the relevant Ministerial group, and the Chancellor of the Duchy has had discussions with (inter alios) Mr. Silkin, Mr. Steel and Mr. Enoch Powell. The clear view of all those he consulted was that the House of Commons should not take action to expel Mr. Sands. The argument is that the present law may well be an ass, but that Mr. Sands was legally entitled to election and that those who voted for him knew that he was and would remain in custody. As regards possible amendment of the law, the Ministerial group invited the Minister of State, Home Office, to put a paper to the meeting of H Committee on 15th April with a view to early legislation. The Chancellor of the Duchy's consultations have shown that there might well be general support for a change in the law, but, here again, there was a wish that the House should not take immediate action. (We have, incidentally, established that Parliament was told of the change made in the law in 1967 on the recommendation of the Criminal Law Revision Committee. The matter does not seem to have attracted any interest at the time.)

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Handling

4. You will want the Chancellor of the Duchy to report on his consultations and the Secretary of State for Northern Ireland to report on reaction in the Province. He is likely to stress the need for reaffirmation of the Government's refusal to countenance any form of political status for IRA prisoners. The Chief Whip could comment on feeling in the Party and the House. The Home Secretary may want to indicate the problems associated with introducing legislation to prevent a person serving a sentence of imprisonment from standing at an election. You will not, however, want the Cabinet to discuss the substance of the matter until it has been considered by H Committee. It is worth noting, however, that if, as he himself predicts, Mr. Sands dies later this month, the subsequent further by-election could hardly be postponed later than June or July. Unless therefore legislation were on the Statute Book before then there will be nothing to prevent another convicted member of the IRA being nominated to succeed Mr. Sands.

Conclusion

5. Subject to the course of the discussion, you might guide the Cabinet to agree that no steps should be taken to move a motion for Mr. Sands's expulsion from the House of Commons. If such a motion is moved by a Private Member, the Government's attitude might be that it would be wrong to proceed immediately in the absence of a general agreement in the House of Commons. The Cabinet might also note that H Committee is considering possible legislation.

Brixton

6. It may be convenient under Parliamentary Affairs for the Home Secretary to report on the riots in Brixton and the reaction to his statement in the House of Commons this afternoon. You may, however, want to discourage any lengthy discussion of the implications of the riots on this occasion.

ROBERT ARMSTRONG

13th April, 1981

*Approved by Sir R Armstrong  
and signed on his behalf.*