

① Oppose =  
 ② More difficult  
 if only pre '67.

Ref. A05040

PRIME MINISTER

Cabinet: Disqualification of Prisoners from Election to Parliament

## BACKGROUND

The Cabinet agreed last week (CC(81) 21st Conclusions, Minute 4) that the proposed legislation to disqualify prisoners from election to Parliament should be confined to dealing with convicted persons detained in prison in the United Kingdom pursuant to a sentence of more than 12 months. It should not extend to prisoners in the Republic of Ireland, or to those released subject to executive recall. The Cabinet agreed that acting returning officers should have power to invalidate the nomination of persons disqualified by the Bill, but recognised that this provision might have to be modified in favour of a return to the pre-1967 position (when such prisoners could stand for election but if top of the poll could not be legally elected) in order to secure a wide measure of support for the Bill. The Home Secretary and the Chancellor of the Duchy of Lancaster were invited to consult other parties in the House of Commons, and report back as necessary.

2. The Shadow Cabinet has not yet formally considered the position, but we understand that Mr Hattersley has told the Home Secretary that the Opposition are not in favour of the introduction of a disqualification Bill before the Summer Recess. They take the view that it would be wrong to deprive the electorate of the opportunity of voting for the candidate of their choice, that it would be undesirable for any legislation to be directly linked to the vacancy in Fermanagh and South Tyrone, and that opinions might be expressed during the passage of any Bill at Westminster which would exacerbate the situation in Northern Ireland. The Opposition apparently have no intention of arguing that a convicted prisoner should, if elected, be released from custody in order to take his seat, and have said that, if in spite of their reservations a Bill is introduced before the Recess, they will allow a free vote on their side.



## HANDLING

3. You will wish to ask the Home Secretary to outline the position reached in his consultations with the Opposition so far, and on the likely views of other parties in the House of Commons. The Chancellor of the Duchy of Lancaster and the Secretary of State for Northern Ireland may wish to comment, and the Chief Whip will be able to report on the state of opinion among the Government's own supporters.

4. The Government have already said publicly that they would hope that any legislation on this subject would command wide all party support in Parliament. Should they nevertheless be prepared to go ahead if necessary without the agreement of the Labour Party? If so, the Cabinet will need to decide whether to retain the proposed power to invalidate nominations, or merely to restore the pre-1967 position. The latter course seems unlikely to make the Bill acceptable to the Opposition, and might be criticised by the Government's own supporters as giving the Provisional IRA scope for a repetition of the propaganda victory which they claimed over the election of Mr Sands. The Secretary of State for Northern Ireland will have views on which course would be preferable from the point of view of the internal situation in the Province.

5. The Cabinet have so far taken the view that if an attempt is made to move a writ for Fermanagh and South Tyrone before any legislation is ready for introduction, the Government should seek to have the debate on the writ adjourned until early in July. If the Cabinet decide on balance that the Opposition's attitude makes it undesirable to introduce legislation before the Summer Recess, they will have to reconsider the appropriate response to a motion for a writ. The Secretary of State for Northern Ireland feels that it would be undesirable for a by-election to be held in July or August, which are always particularly difficult months in Northern Ireland politics. It is, however, difficult to see what reasons the Government could advance publicly for opposing the immediate issue of a writ, particularly if the writ for Warrington were to be moved in the next few days. Any two members can, of course, effectively compel the Speaker to issue his warrant for a writ under the Recess Elections Act 1975 as soon as the Summer Recess begins.





## CONCLUSION

6. It is urgent to reach a decision if a Bill is to be introduced and become law by the end of July. In the light of the reports from the Home Secretary and the other Ministers concerned, the Cabinet will need to decide whether to go ahead now with a Bill to disqualify prisoners from election to Parliament.

If the decision is to proceed with a Bill, the Cabinet will also need to take a policy decision on whether there should be a power to invalidate the nomination of persons disqualified under the Bill and invite the Home Secretary to bring a draft of the Bill before Legislation Committee for approval at the earliest possible opportunity.

If the Cabinet decide against proceeding with the Bill at this stage it would be for the Home Secretary, in consultation with the Chancellor of the Duchy of Lancaster and the Secretary of State for Northern Ireland, to consider how best to make the decision known to Parliament. You will wish also in that event, to record a firm decision on whether any steps should be taken to oppose or delay the issue of a writ for a by-election in Fermanagh and South Tyrone.

ROBERT ARMSTRONG

10 June 1981