

CONFIDENTIAL

Ref. A04887

PRIME MINISTER

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Cabinet: Northern Ireland

The Northern Ireland Office received information on Tuesday that a Welsh Nationalist Member might, at the beginning of today's business in the House of Commons, move a writ for a further by-election in Fermanagh and South Tyrone. This did not happen, but there is a risk that a motion for the writ will be moved in the House fairly soon with the avowed intention of allowing the electors of the constituency a further opportunity to exercise their democratic rights and the real intention of embarrassing the Government. Discussions between the Ministers most directly concerned this morning revealed differences of opinion which you may think the Cabinet needs to resolve.

2. The Chancellor of the Duchy of Lancaster has it in mind to raise the matter under Parliamentary Affairs. Discussion is, however, likely to widen to take in the general security situation in the Province, and you may therefore prefer to take the matter under a separate Northern Ireland Affairs item which could, as last week, follow Community Affairs since the Secretary of State for Northern Ireland wishes, I understand, to give the Cabinet a report on developments in Northern Ireland.

3. I attach a brief dealing solely with the problem of the writ.

REA

ROBERT ARMSTRONG

13th May, 1981

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PRIME MINISTER

## WRIT FOR BY-ELECTION IN FERMANAGH AND SOUTH TYRONE

Background

1. The seat is vacant following the death of Mr Sands. While Parliament is sitting any Member can move that a writ be issued for a by-election. (For the position in a recess see paragraph 4 below.) Such a Motion is given immediate precedence and is debatable. The normal convention is that the writ is moved by the Chief Whip of the party of the Member who has died or vacated his seat. It is also the normal convention that there is an interval of six weeks or more between the death of a Member and the issue of the writ. When, however, the previous Member for this constituency (Mr Maguire) died, the writ was moved fairly quickly by an Ulster Unionist Member.
2. The Secretary of State for Northern Ireland is most anxious that there should not be an early by-election in Fermanagh. This would increase the security problems of the Province and might lead to more aggressive tactics by the para-military Unionist organisations. More generally, the Cabinet were inclined to feel - though no formal decision was taken - that there should be early amending legislation to disqualify a convicted prisoner from being elected as an MP while serving his sentence. (Alternatively, as H Committee subsequently recommended, the legislation might prevent such a prisoner from being nominated.) Until such legislation is in place the IRA can repeat their propaganda coup by nominating another hunger striker as a candidate. These are all arguments for delaying the writ.
3. On the other hand, whatever amending legislation is first passed, a by-election will provide opportunities for republican propaganda. Moreover, a deliberate decision by the Government or the House of Commons to leave the seat vacant for a lengthy period would itself give considerable propaganda opportunities to those opposed to the Government's policy. It is by no means certain that the Labour Party, or large sections of it, would not join such opposition. The bi-partisan approach to Northern Ireland is already under threat and the Cabinet will need to balance the need to sustain it, as far as possible, against the anxieties of the Northern Ireland Secretary on the security problems.
4. Discussion at tomorrow's Cabinet can be confined to the period until the summer recess. The law provides that during that recess (or any recess lasting at least two weeks) any two Members can approach the Speaker seeking a writ because a Member has died, and their application must be granted. There is therefore no way of delaying the by-election beyond August or September.

- The options available if a writ is moved in the near future are broadly:
  - (a) to defeat the Motion, which would mean the matter could not be raised again in that form in the present session;
  - (b) to invite the House to adjourn the discussion with or without naming a day at which discussion should be resumed;
  - (c) to accept the Motion.

#### Handling

6. You will want the Chancellor of the Duchy to introduce the subject. You will then want the views of the Secretary of State for Northern Ireland and the Home Secretary. The latter can report on the progress made with the preparation of a bill to disqualify prisoners serving sentences from nomination or election. The Chief Whip can assess the balance of Parliamentary opinion and the chances of securing general support for such a bill. (If the bill were to be opposed by a substantial body of Members not only would it take longer to get through but it would disrupt the rest of the legislative programme, which is already at risk because of the prospect of a bill on the Canadian Constitution.)

7. The Foreign and Commonwealth Secretary may have views on the repercussions in both the Republic of Ireland and the United States of a decision to obstruct at Westminster the holding of a further by-election in Northern Ireland. The Lord Chancellor and the Secretary of State for Scotland are among other members of the Cabinet who may wish to contribute to the discussion.

#### Conclusion

8. The Cabinet may feel that, although it would be wrong to defeat the Motion for the issue of a writ by a straight vote, thus preventing the matter being raised again before the recess, it would nevertheless be right to secure that no writ is issued until the Government have decided and announced the provisions of fresh legislation governing the eligibility for Parliamentary elections.

9. If so, you might be able to guide the Cabinet to agree that the Chancellor of the Duchy should be ready to move a manuscript amendment that any Motion for a new writ should be adjourned for at least a month, and that in the meantime the Home Secretary should proceed urgently with the preparation of legislation and the Chancellor of the Duchy should have further consultations with other parties in the House in the hope of securing their agreement to it. The Cabinet would then need to return to the matter when precise proposals about the legislation were available.

RTA

13 May 1981