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Ref. A03833

PRIME MINISTER

Cabinet: Parliamentary Affairs: British Nationality Bill

The Home Secretary intends to ask the Cabinet to reconsider a decision taken today by Legislation Committee about the timing of the introduction of the British Nationality Bill.

BACKGROUND

2. In his paper for Legislation Committee (L(80) 86) the Home Secretary sought agreement for the introduction of the Bill in the House of Commons in January. In his view, supported by the Attorney General and First Parliamentary Counsel, the number of drafting changes to be made to the current print of the Bill and the possibility of more substantial amendment mean that the Bill is not ready for immediate introduction. Legislation Committee, on the strongly-argued case of the business managers in both Houses, took the view that introduction before Christmas was essential for the orderly progress of the legislative programme and that the Bill would not in practice become law this Session if it were not introduced until January. Legislation Committee therefore decided that the necessary printing arrangements should be put in hand for the Bill to be presented on Thursday and published on Friday. The Minister of State, Home Office (Mr. Raison), reserved the Home Secretary's position.

3. The Lord President does not consider that the House of Lords can be asked to endure a lengthy spillover, as happened last Session following the Cabinet's decision not to proceed with the first version of the Local Government, Planning and Land Bill in that House. The Nationality Bill will require lengthy debate in the Lords, and the business managers therefore want it introduced there immediately after Whitsun.

4. The position in the Commons is complicated by the demands of some Members including some Government supporters that, since the Bill is a "constitutional Bill", all stages should be taken on the floor of the House.

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There is no agreed definition of a constitutional Bill, but the claim that the British Nationality Bill is such a Bill has some plausibility. The Commons business managers say, however, that to concede Committee Stage on the floor would be to wreck the rest of the programme. They are equally unhappy at the prospect of using the Government's majority and a guillotine to take the Bill through the normal Standing Committee procedure. That might secure passage through the Commons by Whitsun, but at the cost of further damaging relations with the Opposition and providing the Lords with further reason for a lengthy debate there.

5. Against that background the Chancellor of the Duchy is anxious to take up the suggestion made in the Commons by the Shadow Leader of the House that the Bill might be one of the three Bills examined by the experimental Special Standing Committee procedure. If the Opposition accepted this the rest of the Committee Stage would be "upstairs". The procedure would, however, require another four weeks - hence the demand for immediate introduction and the clear view of the majority of Legislation Committee that without immediate introduction the Bill will be lost.

6. One point not considered by Legislation Committee, which the Cabinet may think relevant, is that publication of such a major and controversial Bill on Friday could attract the kind of criticism attracted by Written Answers on the day before the Recess.

HANDLING

7. You will want the Home Secretary to explain to Cabinet why he wishes to reverse the view taken by Legislation Committee. You may then want the views of the Lord Chancellor as Chairman of that Committee, of the Chancellor of the Duchy and the Chief Whip on the problems in the Commons, and the Lord President on the problems in the Lords. (He is likely to argue that the right course is to defer the Bill altogether until next Session. It has, however, already been deferred once.) The Attorney General, who has been invited for this item, will have a view on the strength of the criticism that might be attracted by publishing a defective Bill. The Foreign and Commonwealth Secretary may also want to comment since the Bill is of vital importance to the Commonwealth and especially the colonies.

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8. The Cabinet might first wish to try and establish the facts:
- (a) Can the Cabinet be assured that the decision of Legislation Committee can in practice be carried out? Have the problems of printing the Bill in time for publication on Friday been resolved? The Home Secretary or the Attorney General may know the answer.
 - (b) How substantial are the amendments that still need to be made to the current print of the Bill? How far would the need to move such Government amendments affect the Government's credibility in putting forward this major and long-awaited piece of legislation? The Home Secretary can give a view.
 - (c) Is it certain that the Opposition will accept reference to a Special Standing Committee with three evidence-taking sessions as a substitute for taking the Committee Stage "on the floor"? In other words, does Mr. Silkin's agreement carry that of Mr. Hattersley and others? The Chancellor of the Duchy of Lancaster can give a view.
 - (d) If the Bill is not introduced until January and then goes to the Special Standing Committee procedure, the "normal" Committee Stage cannot start until about the end of February. Is it then quite impossible to deliver the Bill to the Lords by Whitsun?
 - (e) What is the latest date for the Bill to reach the Lords and still have at least its Committee Stage by the end of July?

9. The Cabinet will then need to form some view on the degree of risk involved to the smooth working of the House of Commons and to the rest of the programme if they decide to support the Home Secretary's view that the Bill cannot be introduced in its present state and that, if necessary, the Government must simply use its majority to force it through the normal Standing Committee procedure. It is essentially that risk that has to be assessed against the risk of introducing a Bill with which neither the sponsoring Department nor the Parliamentary Counsel are satisfied.

CONCLUSION

10. The conclusion might be either:
- (a) to support the decision of Legislation Committee, allow the Bill to be published on Friday, and invite the Chancellor of the Duchy to use his best endeavours to secure its passage with the aid of the Special Standing Committee procedure, or

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(b) to decide that the Bill should not be published now but as early as possible after the House resumes.

11. If they decide on the latter course, the Cabinet might invite the Chancellor of the Duchy of Lancaster, in consultation with the other Ministers concerned, to give further consideration to the best way of handling the Bill with a view to its being available to the Lords by the end of May, and to report back to Cabinet after Christmas.



ROBERT ARMSTRONG

17th December, 1980

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