

The A-G's advice?

Once we put in an unnecessary new clause we throw doubt on PRIME MINISTER all the other ministers in the Bill.



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BRITISH NATIONALITY BILL: NEW CLAUSE ON NON-DISCRIMINATION

The Opposition have tabled a New Clause providing that, wherever the citizenship of any person may be affected by the exercise of any discretion, that discretion shall be exercised without any regard to that person's race, colour or religion.

The New Clause is strictly speaking unnecessary because its principles are of course already observed. We are indeed committed by international convention to their observance. But I believe that to resist the principle enshrined in the New Clause would lead to grave difficulties.

You and I have consistently and constantly maintained, quite rightly, that the British Nationality Bill is not racist in any way. Opposition to the New Clause would, however, give the opponents of the Bill a great deal of ammunition with which to cast doubt on our past statements. It would be said that we were not prepared to see a statement in the Bill that decisions were to be taken without regard to race, colour or religion. It would be said that the Government feared to see such a provision in the Bill in case it could be used against them in situations where they did wish to discriminate in this way. I think that this could be very damaging.

I must, however, mention that although some of our supporters would be in favour of the New Clause others would raise strenuous objections to accepting it or anything like it. They would argue that the New Clause was unnecessary, and insulting to the extent that it implied that discrimination was practised already; and that it would also make it difficult to resist further amendments introducing rights of appeal.

There is force in these arguments but they are not conclusive. We shall of course deny strongly that any discrimination at all is practised at present. And the existing safeguards (Parliamentary accountability and the prospect of investigation by the Parliamentary Commissioner for Administration) are sufficient to enable us to argue that acceptance of a non-discrimination clause does not pave the way to a right of appeal.

If we oppose the New Clause we shall, I believe, stand a good chance of being defeated on the matter in Committee. Even if we avoided that, a Clause on similar lines could well be passed against us in the House of Lords in very damaging circumstances politically. Given that there are in any case very real

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presentational difficulties in opposing the Clause, I hope that you will agree that in Committee we should accept the New Clause's provisions in principle, although we should table our own New Clause, which would be technically sounder but achieve much the same intended effect, and invite the Committee to vote for that in preference to the one tabled by the Opposition.

We are to talk about this on Thursday 7 May.

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W.L.

5 May 1981