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10 DOWNING STREET

From the Principal Private Secretary

23 June 1981

SUBJECT.

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CLO  
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NIO  
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Parliament.

cc. Market act.

Dear John,

Representation of the People Bill

The Prime Minister held a meeting this afternoon to discuss the Home Secretary's minute of 23 June 1981 in which he proposed that an amendment to the Representation of the People Bill should be tabled to extend disqualification to prisoners serving a sentence of more than twelve months in the Republic of Ireland. As well as Mr. Whitelaw, the Foreign and Commonwealth Secretary, the Attorney General, the Chief Whip, Mr. Adam Butler and Sir Robert Armstrong were present.

The Home Secretary said that he did not pretend that the Bill was perfect. It was intended to deal with an emergency and tried to block as many loopholes in the electoral system as possible. But there was a real danger that the further one went the more the Bill got into the whole field of electoral law and raised yet further loopholes. It was quite clear from yesterday's Second Reading debate that the House of Commons was determined to extend disqualification to prisoners in the Republic. If the Government did not itself move an amendment to this effect, a back bencher would do so and the amendment would be carried. Even when the Bill was amended in this way, it would still be possible for the IRA to put up a candidate like Gerry Adams or a known member of the IRA who was wanted by the police in Northern Ireland but who was living in the Republic, though not in prison. The Bill, as amended, would not stop the nomination of such a candidate. But he thought it would be sufficient to accept the clear wishes of the House of Commons and to support the amendment in Mr. Douglas Hogg's name which in clause one, line one, after "Kingdom" inserted "or elsewhere in the British Isles or the Republic of Ireland".

The Home Secretary added that he was considering whether to accept an amendment which would provide that a sitting Member of the House of Commons who was sentenced to prison for a term of more than twelve months would not be disqualified immediately but would have a decision postponed until his appeal had been heard.

/The Attorney General

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The Attorney General said that, although Mr. Hogg's amendment was not as tightly worded as it might be, it would serve the intended purpose. More generally, although it was a good rule that hard cases made bad law, he agreed with the Home Secretary that the situation in Northern Ireland was such that the present Bill had to be passed as soon as possible. He was, however, concerned that the election timetable, even when extended, might not allow sufficient time between the closing date for the submission of candidates' nomination papers and the publication of the final list of candidates for the Returning Officer to receive the answers to his enquiries about candidates said to be in prison in the Republic of Ireland.

The Foreign and Commonwealth Secretary said that the Irish Government would not like the proposed amendment which extended disqualification to prisoners in the Republic but it was something they would have to put up with. The fact was that if the present loophole was left in the Bill, an IRA prisoner in the Republic would exploit it sooner or later, and this would be no more in the interests of the Irish Government than it was in ours. In any case it was clear that the Bill was going to be amended in the way under discussion, whether the amendment was tabled by the Government or not, and so the Irish Government would have to live with the extension of disqualification.

The Chief Whip said that he too was concerned that Returning Officers might have insufficient time to make full enquiries about candidates who might be in prison in the Republic. He had also earlier raised with First Parliamentary Counsel the question of the effect on the Warrington by-election if the writ for that by-election was issued before the Bill received Royal Assent. First Parliamentary Counsel's advice had originally been that the Bill should be amended to make it absolutely certain that if the writ was issued before Royal Assent, the by-election would take place on the existing timetable and not on the new one provided for in the Bill; but he now took the view that such an amendment was not necessary.

Mr. Butler suggested that, in the interests of denying the IRA as much opportunity to embarrass the Government and to score propaganda victories as possible, we should consider whether disqualification should be extended not only to the Republic of Ireland but also to Commonwealth countries.

The Home Secretary said that he believed that in present circumstances the proposed election timetable would allow Returning Officers enough time to make enquiries about candidates thought to be in prison in the Republic as well as about those serving sentences in the United Kingdom. But he could not guarantee that either now or in the future, when the circumstances of our relations with the Republic might be different, Returning Officers would always get a timely and accurate answer. This was a risk which we had to take. He did not favour extending disqualification beyond the Republic. To do so in respect of Commonwealth countries would mean consulting their Governments before the Bill became law, and it was plainly impossible to do that between now and Thursday. He did not believe that if an IRA prisoner in a United States prison stood as a candidate in an election in the

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/United Kingdom



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United Kingdom, this would have much public effect. If we prevented prisoners in the United Kingdom and the Republic from being nominated, we should have dealt with by far the most substantial part of the problem.

The Prime Minister, summing up the discussion, said that the meeting agreed that the Bill should be amended to provide for an extension of disqualification to prisoners serving a sentence of more than 12 months in the Republic of Ireland, and the Government should accept Mr. Douglas Hogg's amendment for this purpose. The Attorney General should confirm that it was not necessary to amend the Bill to deal with the problem of the issue of a by-election writ before the Bill had received Royal Assent.

I am sending copies of this letter to Brian Fall (Foreign and Commonwealth Office), David Heyhoe (Chancellor of the Duchy of Lancaster's Office), Jim Nursaw (Law Officers' Department), Murdo Maclean (Chief Whip's Office), Celia Hadden (Northern Ireland Office) and David Wright (Cabinet Office).

Yours ever,

Alvin Whiston.

John Halliday, Esq.,  
Home Office.

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