

## NATIONAL ARCHIVES

### IRELAND



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Possible Re-Introduction of Capital Punishment Following  
Conservative Victory in British General Elections

1. Following the British General Election on 9 June and the influx of new Tory MPs there has been renewed speculation in the media about a possible return of capital punishment. During the election campaign Mrs. Thatcher made clear her personal support for the death penalty especially in the case of terrorist crime and she promised to make time in the new Parliament for a debate on the issue.

2. It is by no means certain that the new House of Commons would vote for the re-introduction of hanging but the balance of opinion appears to have shifted sufficiently to cause concern on our part regarding the possible implications for Northern Ireland. The use of the death penalty in the case of terrorist crime resulting in death (which is, of course, the category of use most likely to be approved by Parliament) would lead to a serious deterioration in the Northern Ireland situation. The consequences for the North and for this State would be likely to be far more serious even than the continuing fall-out from the 1981 Hunger Strikes. They would possibly include the following:

- (i) A further sharp rise in popular support for the PIRA and its political front PSF in Northern Ireland.
- (ii) Serious street violence in Northern Ireland at the time of any executions.
- (iii) Growing public concern within this State similar to that occasioned by the hunger strikes but with possibly even more damaging results particularly if executions were relatively frequent. This concern would lead to very serious pressures on the Government which would hinder our objectives in relation to Irish reconciliation and Anglo-Irish relations.
- (iv) A further specific problem for the Government might be an intensification of the difficulties already implicit in its relationship with the minority community in Northern Ireland as a result of the growth in that community's support for PSF.



- (v) Hangings in Northern Ireland (or of convicted Irish people in Britain) would provide a major "propaganda boost for the PIRA front in the United States, Noraid and other organisations who pursue an emotional "Brits out" line there. Noraid revenue increased dramatically during the hunger strikes and it is certain that the organisation would exploit every execution to put its case of British oppression and present those executed as martyrs. Concern about the use of capital punishment in Northern Ireland could, of course, become an issue internationally and intensify, as did the hunger-strikes, the tendency to adopt simplistic approaches to the Northern Ireland problem on the part of the media and the public generally in European Countries and elsewhere.

3. The re-introduction of the death penalty has always been a popular cause with the Tory rank and file. At last October's Conservative Party Conference the outgoing Home Secretary Mr. William Whitelaw, who made no reference in his address to calls for the return of the rope, faced a hostile reception from delegates. This year's Young Conservatives Conference held in February, and with an election clearly in view, urged the Government by a comfortable majority "to look again at steps to re-introduce both capital and corporal punishment". Although some of the young Tories had misgivings about the reintroduction of capital punishment, others specifically highlighted the terrorist crimes of the IRA as necessitating this penalty.

4. Before the 1979 election which first returned Mrs. Thatcher as Prime Minister, Mr. Whitelaw is said to have privately expressed concern that the new Parliament might have a pro-hanging majority. In the event the outgoing House of Commons had two full scale debates on the issue with the following votes against the death penalty:



19 July 1979

Motion: "That this House believes that the sentence of capital punishment should again be available to the courts"\*

Vote : Ayes 243 Noes 362

11 May 1983

Criminal Justice Bill

New Clause 22: "A person convicted of murder shall be liable to capital punishment"

Vote: Ayes 195 Noes 357

New Clause 19: Death Penalty for Terrorism Involving Loss of Life

Vote: Ayes 208 Noes 332

New Clause 20: Death Penalty for Murder by Firearms or Explosives"

Vote: Ayes 176 Noes 343

New Clause 21: Death Penalty for Murder of Police and Prison Officers

Vote: Ayes 208 Noes 332

New Clause 27: Death Penalty for Murder in Course of Robbery and Burglary with Offensive Weapons

Vote: Ayes 151 Noes 331

5. The following table gives the voting record of Mrs. Thatcher and key Ministers in the new Cabinet in 1979 and 1982:

	<u>1979</u>	<u>1982</u> Clause				
		22	19	20	21	27
Mrs. Thatcher (Prime Minister)	Aye	Aye	Aye	Aye	Aye	not voting
Geoffrey Howe (Foreign Secretary)	Noe <del>not voting</del>	not voting	not voting	not voting	not voting	not voting
Nigel Lawson (Chancellor of the Exchequer)	not voting	Noe	Aye	Aye	Aye	Aye
Leon Brittan (Home Secretary)	Noe	Noe	Aye	Noe	Noe	Noe
Norman Tebbit (Employment Secretary)	Aye	Aye	Aye	Aye	Aye	Aye
Cecil Parkinson (Minister for Trade & Industry)	Aye	Aye	Aye	Aye	Aye	not voting
James Prior (Northern Ireland Secretary)	Noe	Noe	Noe	Noe	Noe	not voting



It will be noted that although the new Home Secretary, Leon Brittan, opposed the death penalty generally he supported it in the 1982 votes for terrorism involving loss of life. On the other hand his predecessor, William Whitelaw, now leader of the House of Lords, opposes capital punishment and his influence in the upper house could help to defeat death penalty legislation which had been passed by the House of Commons.

6. The renewed speculation on moves to have another Commons vote on hanging is prompted by the large Tory majority and the perception that many Conservative newcomers are pro-capital punishment. A Sunday Times survey of likely new Tories during the campaign concluded that the typical new Conservative M.P. would "definitely be in favour of hanging for certain crimes." The Guardian following the election reported that some estimates put the pro-hanging new Tories at 70 out of 104. But that paper reminded its readers that an estimated 87 Conservative MPs who opposed hanging in the last Parliament have been returned and its conclusion was that these combined with the opposition parties (excluding Unionists other than Enoch Powell who opposes hanging) would ensure the defeat of any capital punishment measure in the new House. Other commentators have however, rated the chances of a pro-hanging measure more highly. What is certain is that the Tory party, following the election, is now probably at least two to one in favour of the death penalty. Support for the death penalty is, it should be stressed, strongest in the case of terrorist crimes. The Tory MP who moved the general clause 22 in 1982, Mr. Vivian Bendall, was quoted on Monday last 12 June as saying that "I think it's very likely we can win this time..... I know that a great number of the new Tory MPs are in favour of the death penalty, if not right across the board then for certain categories of murder".

7. Any vote in the House of Commons (Conservatives 397, Labour 209, Liberal 17, OUP 11, Social Democrats 6, Others 10) would, in line with the practice in recent years, be a free one. A new bid to restore hanging is possible in the autumn. Any restoration of capital punishment would of course, have to be applied specifically to Northern Ireland by Order in Council to take effect there but the use of the penalty even in England and Wales could have the serious results outlined at para. 2 above (e.g. if an Irish terrorist were hanged in a British prison).



Another factor to be borne in mind apart from the make-up of the new House, is the continuing high level of and perhaps growing public support for capital punishment in Britain.\* Certainly a renewed PIRA bombing campaign could well clinch the argument in the Commons insofar as terrorist crimes are concerned. To sum up, it can be said that the composition of the new Tory party in the Commons makes the imposition of capital punishment for crimes related to the Northern Ireland situation an increased possibility. In view of the disastrous consequences which would follow from such executions the matter is one on which the British Government might be made aware of our views at the highest level.

Mr. Prior's Position: In a BBC Radio 4 interview on 14 June 1983 the Secretary of State was asked whether he was aware of Mrs. Thatcher's support for capital punishment. He replied that he was but remarked that she favoured a free vote on the issue. Mr. Prior was then asked whether he thought that Parliament would now pass a measure providing for the death penalty in the case of terrorist crime and he answered that he did not think this would happen. In this and other media interviews yesterday Mr. Prior stated that there was a majority in the House of Commons against hanging. When asked by Brian Walker of BBC Radio 4 about his own position on capital punishment for terrorists the Secretary of State replied that he was as against it as Enoch Powell. Despite these reassuring comments from Mr. Prior, we cannot be complacent about the increased support for capital punishment in the governing party in Britain. Even if the restoration (or perhaps more to the point, use) of the death penalty still remains, on balance, unlikely it is desirable that our position be made absolutely clear at this stage.

Anglo-Irish Section

Department of Foreign Affairs

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