

COPÉ

FCS/86/247CDP
24/11SECRETARY OF STATE FOR NORTHERN IRELANDPublic Order Legislation

1. Thank you for sending me a copy of your letter of 16 ^{at 11am} October to the Home Secretary.
2. I welcome the thrust of the intended legislation. The improvements of the law to prevent incitement to hatred on grounds of religious opinion and the repeal of the Flags and Emblems (Display) Act 1954 would be particularly welcome, and should be seen as further steps towards fulfilling our commitment to a just and even-handed society in Northern Ireland.
3. I must however admit to some doubt about the tactics you have in mind for handling the repeal of the Flags and Emblems Act. This is, as you point out, an almost entirely obsolete and empty piece of legislation. But it gives an illusory appearance

/of



of protection to the union flag and as such is seen by the minority community as discriminatory. It has a correspondingly symbolic importance for the unionists. Their anger at the repeal of the Act would be heightened if, having sought their views, you were to ignore them. On the other hand, if you decided not to proceed it would be interpreted by the nationalists and the Irish Government as a climb-down in the face of unionist hostility. I wonder, therefore, whether your proposal for public consultation on this issue may not give us more trouble than straightforward publication of the draft Order without any qualification.

4. If further consultation is really necessary (and I must say that I doubt whether it is), I hope that you will make clear your firm intention to proceed with the repeal of the Act on the grounds that it is unnecessary; and that its repeal would in no way affect the flying of the Union flag, but would simply put the situation on a par with that in the rest of the United Kingdom. If you agree with this, it would mean some strengthening of the language in the relevant section of the explanatory document.

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5. I agree with what you say about timing. It will be necessary for our Departments to keep closely in touch on this as matters go forward.

6. I am sending copies of this letter to the Prime Minister, the Home Secretary, the Lord President, the Chancellor of the Duchy of Lancaster, the Chief Whip and Sir Robert Armstrong.

A handwritten signature in black ink, appearing to be 'G. Howe', written in a cursive style.

(GEOFFREY HOWE)

Foreign and Commonwealth Office

24 October 1986

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10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

20 October 1986

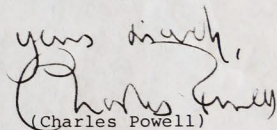
DA
cc/p

Dear David,

PUBLIC ORDER LEGISLATION

The Prime Minister has seen the Northern Ireland Secretary's minute of 16 October putting forward his proposals for amending public order legislation in Northern Ireland. She has expressed some doubt whether it would be right to leave decisions about the conditions to be imposed on potentially controversial processions to an independent tribunal. She accepts that it is envisaged that such a tribunal should only have a "role" in such decisions. But once the tribunal had expressed a view it would very considerably restrict the Government's freedom of action.

I am sending copies of this letter to the Private Secretaries to the Lord President, Foreign and Commonwealth Secretary, Home Secretary, Chancellor of the Duchy of Lancaster, Chief Whip and Sir Robert Armstrong.

yours sincerely,

(Charles Powell)

David Watkins, Esq.,
Northern Ireland Office.



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CABINET OFFICE
WHITEHALL, LONDON SW1A 2AS

Chancellor of the Duchy of Lancaster

Tel No: 233 3299
7471

29 October 1986

The Rt Hon Tom King MP
Secretary of State for Northern Ireland
Northern Ireland Office
Whitehall
LONDON
SW1A 2AZ

NBM
COJ
29/X

D. Tim

Thank you for copying to me your letter of 16 October to Douglas Hurd. I have also seen Geoffrey Howe's reply of 24 October.

It is clearly potentially most awkward that the issue of the repeal of the Flags and Emblems Act should have acquired a disproportionate political significance within Northern Ireland, for both communities.

You have made it clear publicly that the public order review will look at this issue. The only realistic interpretation to be put on that is that you will do so with a view to the repeal of these provisions. That has been seized upon by the nationalist community and others, and is being used to play upon the fears of loyalists.

I have looked carefully at paragraphs 8 to 11 of the draft explanatory document. What it says is an entirely reasonable interpretation of the position. But it is unconvincing in the conclusion drawn. It is not a strong argument to assert that the law on the display of flags and emblems in Northern Ireland should be put onto the same basis as in the rest of the United Kingdom, when the political circumstances concerning the display of flags etc in Northern Ireland is so transparently different from that in Great Britain.

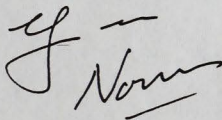
Nor will it necessarily help to say that the presence of the Act is regarded as offensive and discriminatory, and that it should therefore be removed. That is precisely the kind of concession to nationalist opinion upon which loyalist objections to the Agreement thrive. Leaving aside the ample scope for misinterpretation which, as you rightly say, they will exploit to the full, they might reasonably ask: what is the genuine mischief which this Act

perpetuates, and which causes it to have to be repealed? Is it really offensive to have explicit statutory protection for the display of the Union flag under certain circumstances?

I accept that there are reasonable answers to these questions, and others, but I wonder if the answers will be as clearly heard as the questions. I am not persuaded by the view that, in order to avoid appearing to ignore the views of the Unionists solicited by the Explanatory Document, it would be better not to have their views at all. We will not avoid Unionist hostility this way.

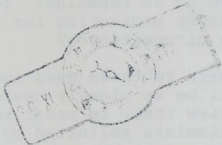
I should be happier to see the proposal couched more neutrally, so that the possible text of the Order and its implications are set out, but no strong preference as to action is expressed. We can then, in the course of the period of consultation, assess the strength of our case for proceeding with the repeal.

I am sending a copy of this letter to the Prime Minister, Lord President, the Foreign Secretary, the Home Secretary, the Chief Whip and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to read 'Norman Tebbit', with a horizontal line underneath the name.

NORMAN TEBBIT

Ireland
SIR
12/21



[Faint handwritten signature or initials]

[Faint printed text, possibly a name or title]