

E.R.

MS60/85

CONFIDENTIAL

Mr Platt 17/8/85 3/9
I cannot be certain whether for you took an interest in this before, or Mr Denlinger. Any comments, please?

- 1. Mr Blackwell
- 2. Miss Elliott, CPL

Jagae 29/8

- cc Mr Brennan
- Mr Buxton
- Mr Carvill
- Mr Chesterton
- Mr Hammond
- Mr Coulson, Estabs (L)
- Mr McKillop, CJB

M. Dudgeon
The earlier App were considered by you in connection with the Public Order "Review" (the question of aspects being auxiliary)

2/9

FLAGS AND EMBLEMS (DISPLAY) ACT (NI) 1954
INCITEMENT TO HATRED

In her minutes of 8 August to Mr Coulson (not to all) Miss Elliott asked whether it would be possible to sweep up the repeal of the Flags and Emblems Act and the amendment of the Incitement to Hatred legislation in the work this Division has in hand to amend Article 4 of the Public Order (NI) Order 1981, which deals with the re-routing and banning of public processions and static open-air demonstrations.

2. This would, I am sure, be a sensible course of action. The repeal of the Flags and Emblems Act would be a straightforward matter and it would be appropriate to do it in the context of an Order to amend the 1981 Public Order Order as it is Section 6(1) of that Order which the police would then rely on to prevent the display of any flag or emblem likely or intended to give rise to a breach of the peace. The incitement to hatred legislation - formerly contained in the Prevention of Incitement to Hatred Act (NI) 1970 - is now contained in Article 13 of the 1981 Order and it would be appropriate to amend this and Article 4 at the same time, particularly as in both cases the proposal is to amend the existing law to bring it into line with the proposals in the Home Office's recent Public Order White Paper (Cmd 9510).

3. On timing, we have only just opened detailed discussions with the RUC on the possibilities for amending Article 4 and it is difficult to judge at this stage how quickly we will be able to reach agreement with them on what changes should be made. Given sufficient priority, we ought to be able to reach agreement before the end of the year and then start the process of drafting an amending Order and getting it into the legislative programme. I imagine that it will also be necessary to discuss with the RUC (and perhaps with other interested

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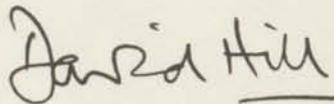
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parties such as the LCJ and the DPP) our proposals for amending Article 13 of the Order so the two exercises should not get far out of step. A rough guess (which Mr Hammond may wish to comment on) is that we would be doing very well to get the amending Order through much before the end of 1986.

4. As for the mechanics, it may be best for LOB to take the lead on all three aspects of the proposed amending Order. This would be the most appropriate and efficient way of proceeding, but I should point out that we will continue to be hard-pressed on the legislative front by the need to finalise Instructions to Counsel for the Bill to implement 'Baker' and by the need to consider whether that Bill should include provisions to deal with the private security industry and provisions to vary the application to terrorist suspects of provisions equivalent to those in the Police and Criminal Evidence Act 1984.

5. A minor additional point of interest is that one of the ways in which we hope to amend Article 4 of the 1981 Order is to delete the reference to "the desirability of not interfering with traditional parades". This might count as a small step towards recognising the Irish identity, thus binding the three elements of the proposed amending Order even closer together.



D J R HILL
Law and Order Division

29 August 1985