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RBS/97/86

cc. PS/PUS (B&L) - M  
PS/Mr Bloomfield  
Mr Stephens  
Mr M Elliott  
Mr Innes  
Mr S Hewitt  
Mr J McConnell  
Miss F Elliott - M

Mr Chesterton - M

RECOGNISING AND ACCOMMODATING THE TWO TRADITIONS

Now that it has been decided not to proceed quickly with the Public Order (Amendment)(NI) Order, it might be opportune to consider further how we present proposals to repeal the Flags and Emblems Act.

I do not, of course, dispute in any way the case for repealing the 1954 Act. It is perceived by the minority as being discriminatory; it serves no practical purpose; it is not now invoked by the police who are satisfied that they have adequate public order powers to deal with any display likely to cause a breach of the peace.

The problem is, as we know, that repeal at the present time will only fuel Unionist hysteria and contribute to the alienation of Unionist opinion. Repeal would be misrepresented eg the Unionist Joint Working Party's leaflet on "A Call to Action" says that: "under the Agreement Dublin is insisting on the repeal of the Flags and Emblems Act so that the Irish Tricolour can freely fly anywhere in Northern Ireland". One can readily foresee extremists on both sides engineering serious incidents over the flying (or non-flying) of a particular flag.

I wonder, therefore, whether it might be sensible to try to tackle repeal not in the framework of "public order", but in the wider context of the commitment in the Agreement "to recognise and accommodate the rights and identities of the two traditions in Northern Ireland".

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Repeal could be handled as one part of a package of measures to recognise and accommodate the two traditions. The package could also cover use of the Irish language, Irish versions of place-names, arrangements to change street names; some of which will also require legislation. The package could be floated through a Green Paper or discussion document, giving the Unionists their chance to contribute to the debate before proposals for legislation are published. A commitment to produce such a discussion paper "later this year" might satisfy the Irish at this stage.

There are obvious dangers in providing the Unionists with an even bigger target than simple repeal of the Flags and Emblems Act. But it might be preferable to get the argument over in one step rather than go through a series of disputes over each point with repeal of the Act, being followed by separate action on street names etc. We could also make use of the Devolution Report Committee's endorsement - for what it was worth - of the Catherwood proposition that "the desire for expression of different cultures ..... could usefully be written into the constitution to support recognition of these wishes".



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Central Secretariat  
5 March 1986  
/JH

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