

BRIEFINGS FOR ISC, 17 OCTOBER 1995.
CONFIDENTIAL

IDENTITY ISSUES

LINE TO TAKE

OFFICIALS HAVE AGREED A JOINT PAPER, UPDATING THE REPORT MADE TO THE SEPTEMBER 1994 IGC. THE REPORT NOTES INCREMENTAL CHANGES ON A NUMBER OF FRONTS. HOWEVER, IDENTITY ISSUES CANNOT BE EASILY SEPARATED FROM THE WIDER POLITICAL CONTEXT. SOME OF THE ISSUES COVERED IN OFFICIAL DISCUSSIONS (EG THE FLYING OF THE UNION FLAG) RAISE VERY STRONG POLITICAL SENSITIVITIES ON ALL SIDES. IT IS DIFFICULT TO IMAGINE SIGNIFICANT CHANGES BEING MADE ON SUCH ISSUES, WITHOUT A MORE GENERAL POLITICAL SETTLEMENT.

I DOUBT WHETHER FURTHER WORK BY THE OFFICIAL WORKING GROUP WILL BE VERY PRODUCTIVE. INDIVIDUAL ASPECTS OF THE SUBJECT CAN BE RAISED AND DISCUSSED THROUGH THE SECRETARIAT IN THE NORMAL WAY, BUT WE SHOULD TAKE THIS OPPORTUNITY TO STAND DOWN THE WORKING GROUP, WHICH HAS DONE USEFUL WORK IN IDENTIFYING THE ISSUES AND CLARIFYING EACH SIDE'S POSITION.

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C O N F I D E N T I A L

BACKGROUND

THE IGC OF 28 JANUARY 1994 ASKED OFFICIALS TO REPORT TO THE CONFERENCE ON IDENTITY ISSUES. A NUMBER OF MEETINGS WAS HELD BETWEEN BRITISH AND IRISH OFFICIALS DURING SPRING AND SUMMER 1994 WHICH, AFTER DISCUSSING GENERAL PRINCIPLES, CONCENTRATED ON THE FOLLOWING RANGE OF SUBJECTS - IRISH LANGUAGE ISSUES, THE FLYING OF THE UNION FLAG ON GOVERNMENT PREMISES IN NORTHERN IRELAND AND OTHER ASPECTS OF STATE SYMBOLISM; AND LEGAL OATHES AND OTHER SYMBOLIC ASPECTS OF THE NORTHERN IRELAND COURT SYSTEM.

THE IGC OF 23 SEPTEMBER DISCUSSED A BRIEF JOINT REPORT BY OFFICIALS ON THE AREAS COVERED. AFTER THIS MEETING, THE JOINT WORKING GROUP REMAINED IN BEING, BUT HELD NO FURTHER MEETINGS UNTIL SUMMER 1995, WHEN THE IRISH SIDE REQUESTED A RESUMPTION OF DISCUSSIONS, WITH A VIEW TO PUTTING A SECOND PAPER TO THE CONFERENCE. A MEETING WAS HELD ON 26 SEPTEMBER 1995 AT THE SECRETARIAT, WITH REPRESENTATION ON THE BRITISH SIDE FROM CCRU, DENI AND THE NORTHERN IRELAND COURT SERVICE. THIS MEETING UPDATED DEVELOPMENTS ON THE ISSUES OF CONCERN TO THE WORKING GROUP. SOME INCREMENTAL CHANGES WERE REPORTED BY THE BRITISH SIDE BUT OVERALL THE IRISH SIDE WAS DISAPPOINTED BY THE LACK OF PROGRESS. THE BRITISH SIDE ARGUED THAT SEVERAL OF THESE ISSUES (NOTABLY FLAG FLYING AND STATE SYMBOLISM) HAD BECOME, IF ANYTHING, EVEN MORE SENSITIVE IN THE PAST YEAR. THE SCOPE FOR GOVERNMENT MOVES ON THESE WAS VERY LIMITED, GIVEN THE OVERALL CONSTITUTIONAL POSITION AND UNIONIST SENSITIVITIES. THE IRISH SIDE ARGUED FOR GREATER FLEXIBILITY ON A NUMBER OF FRONTS, WITH ROOM FOR DISCRETION BY MINISTERS IN LOCAL CIRCUMSTANCES, ESPECIALLY IN RELATION TO IRISH IN ADMINISTRATION AND FLAG FLYING.

SUBSEQUENTLY, THE BRITISH SIDE HAS PREPARED A DRAFT UPDATE ON IDENTITY ISSUES FOR SUBMISSION TO THE CONFERENCE AS A JOINT PAPER. IT IS ASSUMED THAT THIS WILL GO FORWARD PRIOR TO THE CONFERENCE.

C O N F I D E N T I A L

C O N F I D E N T I A L

IT IS PROPOSED THAT BRITISH MINISTERS TRY TO BRING THE WORKING GROUP TO AN END. IT WAS OBVIOUS THAT FUTURE MEETINGS WOULD SIMPLY INVOLVE REPORTS ON MARGINAL CHANGES AND A RESTATEMENT OF PREVIOUSLY EXPRESSED POSITIONS. DETAILED DISCUSSION ON INDIVIDUAL POINTS CAN, OF COURSE, BE BROUGHT UP IN THE NORMAL WAY THROUGH THE SECRETARIAT.

MINISTERS MAY WISH TO BE AWARE OF THE CURRENT POSITION ON A NUMBER OF CURRENT IDENTITY ISSUES, IN CASE IRISH MINISTERS RAISE POINTS OF DETAIL FROM THE JOINT REPORT.

IRISH STREET NAMES

THE NEW LEGISLATION CAME INTO OPERATION IN MAY 1995. TO DATE, ONLY MOYLE DISTRICT COUNCIL HAS ANNOUNCED ITS INTENTION TO ERECT DUAL LANGUAGE STREET SIGNS WITHIN ITS AREA. THE LACK OF INTEREST BY DISTRICT COUNCILS IN USING THEIR NEW POWERS UNDER THE LEGISLATION HAD BEEN SURPRISING BUT IT MAY SIMPLY BE EXPLAINED BY THE SUMMER BREAK. THE SUBJECT RETAINS POTENTIAL FOR ARGUMENTS ON PARTY LINES WITHIN COUNCILS.

IRISH MEDIUM EDUCATION

EARLIER THIS YEAR THE SECRETARY OF STATE AGREED TO SPECIAL FUNDING FROM THE MBW BUDGET OF £100,000 PER ANNUM FOR TWO YEARS FOR MEANSKOIL FEIRSTE, THE IRISH MEDIUM SECONDARY SCHOOL IN WEST BELFAST. THE IRISH SIDE MAY PRESS FOR PUBLICATION OF A REVIEW OF IRISH MEDIUM EDUCATION, BUT DENI ARE NOT KEEN TO COMMIT THEMSELVES TO THIS. AS WITH OTHER POINTS OF DETAIL ON IRISH MEDIUM EDUCATION, IT WOULD BE BEST TO REFER POINTS OF DETAIL BACK TO OFFICIAL LEVEL DISCUSSIONS.

IRISH IN ADMINISTRATION

CENTRAL GUIDANCE TO OFFICIALS ON DEALING WITH APPROACHES FROM IRISH LANGUAGE USERS WAS RECENTLY REVISED TO TAKE ACCOUNT OF THE

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~~NEW~~ STREET NAMES LEGISLATION. IRISH OFFICIALS WOULD LIKE THIS GUIDANCE TO GO FURTHER AND, PARTICULARLY, TO ALLOW DISCRETION FOR RESPONSES IN IRISH TO CORRESPONDENTS. THE BRITISH SIDE DOUBTS THE PRACTICALITY OF A CONSISTENT APPROACH IN THIS AREA.

FLAG FLYING

THE IRISH SIDE IS KEEN TO REDUCE THE INCIDENCE OF THE FLYING OF THE UNION FLAG ON OFFICIAL, POLICE AND ARMY BUILDINGS. FLAG FLYING ON GOVERNMENT AND POLICE BUILDINGS (ON 19/20 DAYS PER YEAR) IS DETERMINED BY OFFICIAL GUIDANCE AND THE RUC FORCE CODE. THERE ARE NO PROPOSALS TO CHANGE PRACTICE, WHICH WOULD AROSE POLITICAL SENSITIVITIES, DISPROPORTIONATE TO ANY MARGINAL ADVANTAGE IN TERMS OF RELATIONS WITH NATIONALISTS AND THE IRISH GOVERNMENT. THE FLYING OF FLAGS ON ARMY BASES IS DETERMINED BY QUEEN'S REGULATIONS. ARMY UNITS IN NORTHERN IRELAND HAVE BEEN REMINDED BY THE MILITARY AUTHORITIES OF THE REQUIREMENT TO COMPLY WITH QUEEN'S REGULATIONS.

LEGAL ISSUES

THERE IS AN ON-GOING CASE OF JUDICIAL REVIEW (MAGEE) ABOUT THE VALIDITY OF THE CURRENT QC'S OATH IN NORTHERN IRELAND. UNLESS AN ANNOUNCEMENT IS MADE PRIOR TO THE CONFERENCE (UPDATED BRIEFING WILL BE PROVIDED, IF APPROPRIATE) THE ISSUE CAN BE SAFELY REGARDED AS SUB JUDICE. LEGISLATION ON THE JUROR'S OATH IS LIKELY TO BE LAID AND COME BEFORE PARLIAMENT IN THE COURSE OF THIS YEAR. THIS WILL ENABLE THE EXISTING JUROR'S OATH IN CRIMINAL CASES TO BE SIMPLIFIED AND MODERNISED ALONG THE LINES OF THAT IN USE IN ENGLAND AND WALES.

THE NORTHERN IRELAND COURT SERVICE WILL INSTRUCT STAFF NOT TO USE THE ROYAL ACCLAMATION IN COUNTY COURTS, WHERE PRACTICE HAS PREVIOUSLY BEEN INCONSISTENT. THE ACCLAMATION IS NOT USED IN THE HIGH COURT OR THE MAGISTRATE'S COURTS. IT WILL CONTINUE TO BE USED IN THE CROWN COURT. THE PRACTICE WILL THEREFORE BE

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ROUGHT INTO LINE WITH THAT IN ENGLAND AND WALES. THERE ARE NO
PLANS TO MAKE CHANGES IN PRACTICE ON COURT DRESS OR OTHER
SYMBOLISM.

C O N F I D E N T I A L

From: W.E.Godfrey
12 March 1998

To: J.A.Canavan ^{12.7}

cc Mrs.McCusker

(without attachments)

FLYING OF FLAGS

1. You asked me to tab the main papers on the 'Identity Issues' files relating to the flying of the Union Flag. Rather than give you the files I have extracted what I consider are the main papers back to November 1994. I have noted the file from which each was copied and therefore it should not be too difficult to locate additional material.

2. FILE 845/94

1. Your minute of 15 November 1994 to Chris MacCabe covering a draft submission from David Fell to PS/S of S on harmonising the NI and GB arrangements.
2. Peter Bell's critique of the above - his minute of 22 November 1994.
3. David Watkins's minute of 6 December rebutting (?) Mr.Bell's points.
4. Dr. Martin J.Ball's paper (15 July 1995) "A New Flag for Northern Ireland?".
5. Background note RUC and Army practice.

FILE 630/95

6. Extract from minutes of a meeting of the Anglo-Irish Sect on 26 September 1995.
7. Jennie Murphy's minute of 3 May 1996 re a PQ from John Taylor on the flying of the EU flag. Included because of David Watkins's memo dated 4/5 and yours of 10/5 - is the idea worth dusting down now?
8. Background note relating to Mr.Fabricant's 10 Minute Bill.
9. David Watkins's submission of 29 August 1996 to PS/S of S on advice on the exchange of correspondence between the National Heritage Secretary and the Home Secretary.
10. S of S's letter of 3 September 1996 to Mrs.Bottomely.
11. DNH - "Days for Hoisting Flags on Govt Buildings".
12. Your minute dated 15 October 1996 of a meeting at DNH at which implications of a possible extension of the flying of the Union flag were discussed

CURRENT FILE ^(628/96)

13. DNH's draft minutes of the London meeting. *(first paper below)*.

3. I could not find anything of any significance throughout last year and to date in 1998.

Edward Godfrey.



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DRAFT NOTE OF MEETING TO DISCUSS THE RULES FOR FLYING THE UNION FLAG ON GOVERNMENT BUILDINGS: MONDAY 14 OCTOBER 1996

Those attending:

Mr Russell Ewens (Chairman)	Department of National Heritage
Ms Helen Creear (Secretary)	Department of National Heritage
Ms Fiona Miller	Home Office
Lt Col Malcolm Ross	Lord Chamberlain's Office
Lt Col Ian Vere Nicoll	Ministry of Defence
Ms Lesley Dean	Foreign and Commonwealth Office
Mr Ken Hogg	Department of Transport
Mr David Burbridge	Department for Education and Employment
Mr Tony Canavan	Northern Ireland Office
Mr Huw Williams	Scottish Office

Apologies:

Ms Mary Evans	Welsh Office
Mrs Rogers	Northern Ireland Office

1. The current rules were explained briefly, and the background to the proposal from the Home Secretary that they should be changed enabling the Union flag to be flown more frequently, if not daily, from Government buildings.
2. The point was made that, in considering changes to the current rules, the underlying objective for introducing such changes should be clearly identified. For example, were Ministers concerned about the impact of a large numbers of Whitehall buildings with empty flagpoles for much of the year: or were they concerned to promote the Union or a sense of national identity that the flag engenders?
3. The constraints to a change in the rules were discussed at some length. There would be particular difficulties in Northern Ireland where the Union flag is seen as a symbol of Unionism. Any increase of the frequency of Union flag flying would be viewed with antagonism by the nationalist element. If the rules were changed for Great Britain but an exception was made of Northern Ireland that would be viewed with suspicion by the Unionists. In conclusion, the Northern Ireland Office would be likely to oppose strongly any move to change the current rules at the present time.
4. Similar regional sensitivities did not feature in Scotland, whose Secretary of State was in favour of flying the Union flag every day alongside the Saltire.
5. The cost of increased flag flying was of concern to a number of departments with a large regional or local office network. For example, if the DfEE's Employment Service buildings were included (about 1600 Job Centres) the cost of daily flag flying would be significant.
6. Discussion brought to light two other issues relating to the inconsistent operation of the current rules and how a change would be implemented. First, for those departments with large numbers of buildings, such as the DfEE and Department of Transport, flags are only flown where there is a flag pole. Many buildings, particularly those where the department concerned is not the

main occupant, do not have a flag pole and do not therefore fly the Union or any other flag. Increasingly even main London headquarters of central Government departments are occupying private sector buildings where there might be limited control over the use of flag poles. An increase in the number of Private Finance Initiative projects such as that covering the main Whitehall Treasury building might also have an effect. Second, the proliferation of departmental agencies over the last few years may have changed the way the flag flying rules are applied. If a change in the current rules was to be implemented, there would need to be clear guidance on how such changes were implemented, to which Government offices they applied, etc. If departments had to pay for the installation of new flag poles as a result of any change in the rules there would be a significant cost implication.

7. It was noted that certain departments - the Ministry of Defence, the Foreign and Commonwealth Office and the Northern Ireland Office - operate different variations of the rules promulgated by DNH. For example, the circumstances in which British Embassies abroad fly the Union flag vary according to the local circumstances.

8. The point was also made that flags deteriorate quickly according to the weather, and that a careful maintenance regime would be needed to avoid negative criticism of the condition of flags flown, again adding to the expense.

9. The question of how to mark the special days currently marked by the flying of the Union flag was discussed. These were mainly days of national remembrance, celebration or the birthdays and other anniversaries of members of the Royal Family. Options mentioned were:

a. Differentiating in some way between the main headquarters buildings of Government departments and other buildings, and flying the Union flag on the former all the time but on the latter only on special occasions. It was thought there might be problems of definition here. And there would certainly be problems on whether to include the main Government headquarters buildings in the regions, for example St Andrew's House in Edinburgh and Stormont Castle in Belfast.

b. Flying additional flags on the 20 or so special days; for example, the Royal Standards or the regional flags (ie the Saltire in Scotland, etc.). In the case of the former, the relevant Royal Standard is traditionally flown only when a member of the Royal Family is visiting the building. As for regional flags, although this would be acceptable on the regional saint days, on others it might be regarded as giving an inappropriate emphasis on regional differences, and there would be a significant problem in Northern Ireland where there is no generally accepted regional flag.

c. Specific Government-sponsored concerts or sports events to be held on the days in question, perhaps for the benefit of charitable concerns. This option would represent a radical departure from the current regime which is ceremonial in nature and more of a nationwide expression of respect.

10. Again, the point was made that, in deciding alternative arrangements, it would be necessary to identify clearly the underlying objectives for change. And there would be no point in adopting alternative rules which could not be applied consistently throughout the UK. ~~There was general agreement that the primary obstacle to a change in the rules was the Northern Ireland situation.~~

12. In conclusion, it was agreed that DNH would circulate a draft note of the meeting to all attendees for comment, and that DNH would also consult other departments on how the

These additional difficulties reinforced the primary difficulty which had been identified in the initial Ministerial correspondence, i.e. the N-I - reservation.

conclusions of the meeting would be presented to Ministers. It was envisaged that subsequently the Secretary of State for National Heritage would write again to the Home Secretary and other Ministers.

Buildings Monuments & Sites Division
Department of National Heritage

November 1996

DRAFT SUBMISSION TO SECRETARY OF STATE FOR NATIONAL HERITAGE

Issue

1. This note considers whether there is a case for increasing the number of days on which the Union flag is flown from Government buildings.

Recommendation

based on the FCO,

2. In view of the strong opposition from the Northern Ireland Office to any change in the status quo, other regional sensitivities, and a number of practical considerations, we recommend against change at the present time. A draft letter to the Home Secretary setting out the reasons is attached.

Timing

3. Routine.

Financial implications

4. None if you agree with the recommendation. If the Union flag was to be flown more frequently on Government buildings, there would be a significant extra costs, as yet unquantified, for some departments with a large number of regional and local offices. The Treasury have indicated that departments would have to contain additional costs within existing expenditure limits.

Background

5. The current arrangements provide for the Union flag to be flown from central Government buildings on 20 days per year, as shown on the attached list at flag A. Following correspondence with the Home Secretary and other Ministers - see flag A - it was agreed that officials from interested departments would meet to consider the scope for changing the existing arrangements and, in particular, how the Royal birthdays, anniversaries and other special occasions currently marked by the flying of the Union flag might be highlighted. Officials met on 14 October. A copy of the note of the meeting is attached at flag C.

Discussion

6. The officials' meeting concluded that the strong opposition to any change from the Northern Ireland Office was the single most important factor against changing the rules. More frequent Union flag flying in Northern Ireland would ~~upset~~ ^{anger} the nationalists for whom the Union flag is a symbol of ~~an un-desired regime~~. If Northern Ireland was excluded from alternative arrangements introduced elsewhere in Great Britain, the unionists in Northern Ireland would take the view that the Government were making unacceptable concessions to misplaced nationalist sensitivities.

7. other obstacles to change are:

a. the significant cost implications for some departments with a large regional/local office network, which would be significant [I would like to be able to expand on this]

giving examples of the number of buildings and the costs. Can relevant departments provide information to substantiate this point?]; and

b. the problem of how to mark the special days currently highlighted by the flying of the Union flag. We considered two possible ways of addressing this point: first, to fly the Union flag all the time on main headquarters buildings and on the special days on all the rest as well; and second, to fly additional regional flags (eg the Scottish Saltire) or the appropriate Royal Standard on the special days. There would be difficulties in adopting either change, however. On the first suggestion there would be problems of definition and regional sensitivities (eg whether only Whitehall buildings should be included or whether the list should be extended, for example, to the Scottish Office headquarters buildings in Edinburgh). On the second there would be cost implications where there was only one flagpole and another was required, and again implications for the regions. ~~In particular, neither suggestion would overcome the general objection to change from the Northern Ireland Office.~~ *In particular N-1 - did not have a regional flag, generally accepted across the country.*

8. A key point which arose out of officials' discussion of the issues was that before serious consideration of alternative flag flying arrangements, it would be necessary to know the underlying objective of Ministers' proposals for change. This is not entirely clear from Ministerial correspondence to date. For example, was the proposal for more frequent flag flying part of a more general concern to promote the Union flag as a symbol of national identity, was it intended to promote the Union between the four territories, or was it rather to emphasise the seat of British government and adorn otherwise empty flag poles on the large concentration of Government buildings in Whitehall?

9. The officials' meeting also identified some inconsistencies in the way the current rules are operated by different departments, but we can address any clarification and interpretation issues as a separate exercise.

Handling and presentation issues

10. If you agree that the Home Secretary's proposal should not be taken any further, you will wish to consider the attached draft letter to him, copied to Ministerial colleagues as before. The letter sets out briefly the conclusions of officials' deliberations, and argues that there should be no change in the status quo.

DRAFT LETTER TO THE HOME SECRETARY

THE UNION FLAG

Officials from our departments and a number of others, and a representative from the Lord Chamberlain's Office, have now met to consider your suggestion that the number of days on which the Union flag is flown on Government buildings might be increased.

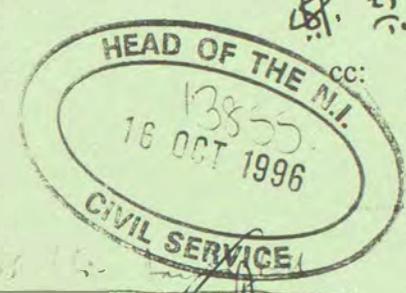
I attach a copy of the note of the meeting which sets out the difficulties associated with the proposal. Although a number of alternative arrangements were considered, I am persuaded that none overcome the fundamental problems highlighted by Patrick Mayhew in his letter of 3 September. A new regime which gave greater prominence to the Union flag in Northern Ireland would offend the Nationalists there. And any arrangements which treated Northern Ireland as an exception to rules applicable elsewhere in the UK would attract criticism from the Unionists. In addition to this political point, there are a number of practical obstacles which would need to be overcome if the existing arrangements were to be changed. These include the difficulty in finding acceptable alternatives for marking the special days on which flags are currently flown, and the cost implications for departments with a large number of regional and local offices.

In view of these concerns, I have reluctantly reached the conclusion that a change to the current regime could not be justified at this point.

I am copying this letter to the Prime Minister and Deputy Prime Minister, and to Kenneth Clarke, Malcolm Rifkind, John Gummer, George Young, Gillian Shepherd, Patrick Mayhew, Michael Forsyth and William Hague.

Julia - I think the previous message on 6/30/95 "Identity Issues" *25/10*

Mr Godfrey



cc: Mrs Brown
Mrs Rogers. NIO
Ms Steele
Mr Godfrey

From: J A Canavan
CCRU

15 October 1996

To: D J Watkins
US, Cent Sec

interesting - the way in Treasury is right.
in London
Thank you + will done.

305/10

DJW
10.10

UNION FLAG - DNH MEETING, 14 OCTOBER 1996

1. Yesterday I attended an interdepartmental meeting in London, chaired by the Department of National Heritage, to discuss issues arising from Ministerial correspondence on the possible extension of the flying of the Union Flag on Government buildings. The Home Office, the Scottish Office, Department of Transport, Department for Education and Employment, FCO, MOD and Lord Chamberlain's Office were represented.
2. There was general scepticism about the practicality and desirability of extending the flying of the flag to every day. Particular note was taken of the political sensitivities in Northern Ireland and we were strongly backed by the FCO on this point. The potential cost implications also loomed large in discussion. It was obvious that practice within Departments varied and that not all flew the flag on their buildings with the same consistency as Northern Ireland. Some Departments foresaw expenditure on fitting flag poles, staff resources and special contractual arrangements with landlords (a particular problem where Central London accommodation has been sold to the private sector and leased back). The flags themselves were expensive and would need to be renewed frequently. The Palace had apparently already complained about the tattiness of flags on the Mall during state visits.

3. Apart from flying the flag, the only other way in which special Royal occasions were marked was by gun salutes. The meeting identified no other way, specific to buildings, to mark these occasions, if the Union Flag were flown throughout the year. There was also concern that, if flag flying on Government buildings became generalised, there would be pressure to extend the practice to Local Government buildings, schools, universities, hospitals, etc, which could produce political problems (not least in Northern Ireland). There was some suggestion of a compromise whereby the Union Flag would be flown on departmental headquarters only all year round, but there would be problems in defining what constituted a departmental HQ - Old Admiralty Building, Stormont Castle/House, NICS departmental HQs?
4. There was no consensus on the subject of regional flags. The Welsh Office was not represented, unfortunately. The Scottish Office was keen on St. Andrew's Cross being flown alongside the Union Flag, if the flying of the latter was extended. None of the London-based Departments was enthusiastic about St. George's Cross. I explained the absence of a Northern Ireland regional flag, generally accepted across the community.
5. DNH will now submit advice to their Secretary of State. They have agreed to send me it in draft, to ensure that the Northern Ireland sensitivities are fully explained. The submission will list the difficulties identified and argue against taking the idea further.

[Signed: JAC]

J A CANAVAN



Days for Hoisting Flags on Government Buildings

From 8 am till sunset

6 February	Her Majesty's Accession
19 February	Birthday of The Duke of York
1 March	St David's Day (<i>in Wales only, see note 1</i>)
10 March	Birthday of The Prince Edward
March	Commonwealth day (<i>second Monday</i>)
21 April	Birthday of Her Majesty The Queen
23 April	St George's Day (<i>in England only, see note 1</i>)
2 June	Coronation Day
June	Official Celebration of Her Majesty's Birthday (<i>see note 2</i>)
10 June	Birthday of The Duke of Edinburgh
1 July	Birthday of The Princess of Wales
4 August	Birthday of Her Majesty Queen Elizabeth The Queen Mother
15 August	Birthday of The Princess Royal
21 August	Birthday of The Princess Margaret
November	Remembrance Day (<i>second Sunday, see note 3</i>)
14 November	Birthday of The Prince of Wales
20 November	Her Majesty's Wedding Day
30 November	St Andrew's Day (<i>in Scotland only, see note 1</i>)
Also	The day of the opening of a Session of the Houses of Parliament by Her Majesty (<i>see note 4</i>)
Also	The day of the prorogation of a Session of the Houses of Parliament by Her Majesty (<i>see note 4</i>)

Notes

1. Where a building has two or more flagstaffs the appropriate National flag may be flown in addition to the Union Flag but not in a superior position.
2. Date to be notified.
3. Flags should be flown right up all day.
4. Flags should be flown on this day even if her Majesty does not perform the ceremony in person. Flags should only be flown in the Greater London area.
5. The Royal Standard is never hoisted when Her Majesty is passing in procession. If the Queen is to be present in a building, you should get in touch with the Department of National Heritage, RE1, Room 4, 2-4 Cockspur Street, London SW1Y 5DH (Telephone 071 211 6393 Facsimile 071 211 6406).



Rules for Hoisting Flags On Government Buildings

**The Following Regulations are Circulated by
Her Majesty's Command
to the Government Offices Concerned**

Dates on which flags are to be flown

The dates named on the accompanying Schedule.

The Department of National Heritage will inform you of any other occasions where Her Majesty has given a special command.

Provincial buildings

The Schedule applies to Provincial as well as to London Buildings (please see notes 1 and 4). Where it has been the practice to fly the flag daily, as in the case of some Custom Houses, this may continue.

Occasions on which flags are to be flown at half mast

- (a) From the announcement of the death up to the funeral of the Sovereign, except on Proclamation Day, when they are hoisted right up from 11 am to sunset.
- (b) The funerals of members of the Royal Family, subject to special commands from Her Majesty in each case.
- (c) The funerals of foreign Rulers, subject to special commands from Her Majesty in each case.
- (d) the funerals of Prime Ministers and Ex-Prime Ministers of United Kingdom, subject to special commands from Her Majesty in each case.
- (e) The Department of National Heritage will inform you of any other occasions where Her Majesty has given a special command.

Rules when days for flying coincide with days for flying flags at half mast

To be flown

- (a) although a member of the Royal Family, or a near relative of the Royal Family, may be lying dead, unless special commands be received from Her Majesty to the contrary;
- (b) although it may be the day of the funeral of a Foreign Ruler.

If the body of a very distinguished subject is lying at a Government Office the flag may fly at half-mast on that office until the body has left (provided it is a day on which the flag would fly) and then the flag is to be hoisted right up. On all other Public Buildings the flag will fly as usual.

Department of National Heritage, RE1, Room 4, 2-4 Cockspur Street, London SW1Y 5DH (Telephone 071 211 6393 Facsimile 071 211 6406).



4719

Northern Ireland Office
Stormont Castle
Belfast BT4 3ST

The Rt Hon Virginia Bottomley JP MP
Secretary of State for National Heritage
2-4 Cockspur Street
LONDON
SW1Y 5DH

*Angus Lorne
File 630/95.*

3 September 1996

*Re
5/9*

Dear Virginia:

FLAGS ON GOVERNMENT BUILDINGS

Thank you for copying to me your letter of 12 August to Michael Howard following your earlier correspondence.

You are entirely right to point out that this subject arouses passions in Northern Ireland. The Union flag is not perceived in Northern Ireland simply as the politically neutral emblem of State. Unionists have adopted the flag effectively as a party emblem. Nationalists see it as symbolic of a nationality which they reject. The flag therefore carries political resonances as in no other part of the UK; and there is no generally acceptable regional flag.

Current arrangements for Northern Ireland specify the flying of the Union flag on Government buildings on 15 days, as stipulated by your Department and common to all regions of the UK, and also on a further 5 days, by virtue of practice initiated by the Stormont Government in the 1920s and 1930s. The RUC has slightly different arrangements. Nationalists dislike even the current incidence of flag flying and indeed the Irish Government has sought to persuade us to modify the present arrangements, citing its

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rights under the Anglo-Irish Agreement which specifically refers to flags and emblems as a matter for consideration between the two Governments. Our judgement has been that elimination of the flying days specific to Northern Ireland would not sufficiently meet the Nationalist case to justify facing the certain Unionist (and backbench) reaction. But any proposal to increase the flying of the flag would certainly provoke strong Nationalist opposition. If such a proposal were aimed at promoting the Union of the United Kingdom, as Michael Fabricant's original proposal claimed to do, my judgement is that it would generate greater internal divisions in Northern Ireland and as such do nothing to promote the Union.

A further point we need to bear in mind concerns the implications of our strong Fair Employment (NI) Act 1989. Under its Code of Practice, employers are required to promote a good and harmonious working environment, including prohibiting the display of flags and emblems which are likely to give offence or cause apprehension among particular groups of employees. While it could be argued that it is purely for ceremonial purposes that the Union flag might fly outside Government premises in Northern Ireland, we cannot be absolutely certain that a Tribunal would share our view, and it is also likely to raise some tension within the public service in Northern Ireland. Furthermore it would make it much more difficult for private sector employers in Northern Ireland, many of whom have been working carefully to reduce sectarian tension by the removal of such flags and emblems, to continue their work. I would be loath to put at risk the progress that both the private sector and we as direct employers have made in the fair employment field by potentially divisive action on the flying of flags.

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I see attractions in principle in moving to common practice throughout the UK, and am content for my officials to participate in any wider review you put in hand. But against the background I have described, I could not support any outcome which could have the divisive effects I foresee in Northern Ireland.

I am copying this letter to the Prime Minister and Deputy Prime Minister, to Kenneth Clarke, Malcolm Rifkind, Michael Howard, John Gummer, George Young, Gillian Shepherd, Michael Forsyth and William Hague and to Sir Robin Butler.

James F. ...
A.K.V.

- cc PS/SJS (BOL)
- PS/Sir S. Wheeler (DIP, BOL)
- PS/M. Anson (DENI BOL)
- PS/PAS (BOL)
- PS/Sir D. Fell
- Mr Thomas
- Mr Bell
- Mr Gibson
- Mr Gowdy
- Mr Leath
- Mr Brown S.A
- Mr Gibson
- Mr Watkins
- Mr Hill
- Mr MacCabe
- Mr Campbell-Bannerman

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FROM: D J WATKINS CC PS/Sir John Wheeler (DFP,B&L) - B
 D/Cent Sec PS/Michael Ancram (DENI,B&L) - B
 DATE: 29 August 1996 PS/PUS (B&L) - B
 PS/Sir David Fell - B
 Mr Thomas - B
 Mr Bell - B
 Mr Gibson, DED
 Mr Gowdy, DFP
 Mr Leach - B
 Mrs Brown - B
 Mr ~~Canavan~~ 29
 Mr Hill - B
 Mr Maccabe - B
 Mr Campbell-Bannerman - B

240 | 8
 C.C.R.U.

PS/Secretary of State (B&L) - B

Ms Lorne
Identifying issues
2/9
3/9
2/9

UNION FLAG

1. You sought advice on the exchange between the National Heritage Secretary and the Home Secretary on the flying of the Union flag on Government buildings. The following reflects the views of NIO colleagues, CCRU, DED and DFP.
2. The issue arose from Michael Fabricant's ten minute rule bill (which did not receive Government support). But on the basis that the Union flag could be flown on Government buildings perhaps every day Mrs Bottomley has suggested that, in addition, officials should now look at an alternative scheme to "enable the special days on which a flag is currently flown to be marked as distinctive in some other way".
3. The passions likely to be aroused by this issue, both here and in GB, were made clear by the recent row over the proposed voluntary ID card format.
4. There are two main aspects in Northern Ireland. First, at the request of the IGC Irish and British officials in the Culture and Identity Working Party have been examining issues such as use of flags. In GB the flag is flown on 15 days specified by DNH, and also on St David's Day (Wales), St George's Day

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(England), St Andrew's Day (Scotland) and the days of opening and prorogation of Parliament (London). In Northern Ireland the flag is flown on Government buildings on 15 days specified by DNH; but also 5 further days specified by the Stormont Government in the 1920s and 1930s (New Year's Day, St Patrick's Day, Easter Day, 12 July and Christmas Day). Irish pressure, which Ministers have resisted, is at least to reduce the flying of the Union flag.

5. We have sought various means to meet legitimate nationalist concerns at excessive use of the Union flag, focusing on other regional flags (perhaps alongside the Union flag), or harmonising practice with GB by reducing the 'excess' days, but so far without success. On the excess days, the key judgement is whether nationalists would be sufficiently mollified by this change to justify facing the utterly predictable unionist (and backbench) outrage. (Some would also argue that use of the Union flag on what they would regard as sectarian occasions such as 12 July is in itself an affront.)
6. The second aspect relates to fair employment. While there are no direct references in the 1989 Act to the flying of a Union flag the guidance contained in the Code of Practice is considered very important by the Fair Employment Tribunal. That Code states that an employer should "promote a good and harmonious working environment and atmosphere in which no worker feels under threat or intimidated because of his or her religious belief or political opinion eg prohibit the display of flags, emblems ... which are likely to give offence or cause apprehension among particular groups of employees".
7. A Government decision to fly the Union flag on major or indeed all Government buildings every day could of course be argued to be purely ceremonial and appropriate for State-owned buildings. But, it could well lead to complaints being made by employees which would be heard by the Fair Employment Tribunal and we could not rule out the possibility of Departments or

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their agencies losing those cases. This would be not only embarrassing for Departments but also damaging to the NICS's hard-won reputation as an impartial and fair employer.

8. In addition, a decision to fly the Union flag more often will place additional pressure on the many private sector employers wrestling with difficult flags and emblems issues. There are encouraging signs that employers increasingly recognise the rightness of pursuing these difficult issues and they will feel let down by any apparent reversal of policy by those who have taken the lead in encouraging it.

9. I judge that Mrs Bottomley's letter, by referring specifically to Northern Ireland, requires a reply. The attached draft seeks to be reasonably firm in pointing out the pitfalls, but is compliant with the idea of a limited examination of options.

[Signed: DJW]

D J WATKINS

SC X28151

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MR FABRICANT'S 10 MINUTE RULE BILL - THE NORTHERN IRELAND PERSPECTIVE

Background

The Union flag is flown on Government buildings in Northern Ireland on the 15 days when it is flown throughout the rest of the UK. In addition, it is flown on 5 additional days (New Year's Day; St Patrick's Day; Easter Day; 12 July and Christmas Day) a practice instigated by the old Stormont administration in the 1920s and 1930s. The flag is also flown from RUC premises on 19 of the 20 days when it appears on public buildings.

Possible Difficulties in applying Mr Fabricant's Bill to Northern Ireland

Nationalists and the Government of the Republic of Ireland are keen to limit the number of official (Union) flag flying days. The Irish have suggested on several occasions that the 5 additional Northern Ireland days could be removed from the list, therefore bringing Northern Ireland into line with GB practice. Unionists, on the other hand, demand rigid adherence to official practice, and would welcome any extension. This is an issue of political symbolism which goes to the heart of communal differences in Northern Ireland. If Mr Fabricant's bill proposed either a restriction or an extension of current practice on the flying of the Union flag (whether in terms of time or location), it has the potential to become politically controversial in Northern Ireland.

Repeal of Flags and Emblems Act

Until 1987 the Union flag enjoyed a special status in law under old Stormont legislation. Since the repeal of the Flags and Emblems Act, the law on breach of the peace applies to the Union flag, as to any other. If Mr Fabricant's Bill attempted to give a new status to the flag, exempting it from control by the police under the law on breach of the peace, if it extended to Northern Ireland, and if the Government supported it, this would be regarded by nationalists and the Irish Government as a retrograde step. Flags and emblems are specifically mentioned as a matter for consideration by the Anglo-Irish Inter Governmental Conference under Article 5(a) of the Anglo-Irish Agreement.

2001: The Bi-Centenary

Though there is no direct connection between this anniversary and Mr Fabricant's Bill, there may be future discussion of how to mark the Bi-Centenary of the flag. The Union flag in its current form dates from 1801, as that was the occasion of the Act of Union between Great Britain and Ireland. The dual significance of the bi-centenary should therefore be kept in mind. The resonances of 1801 for both Unionists and Nationalists will give that anniversary particular sensitivity for reasons which extend well beyond the Union flag.

DU/CPL1/22887

FROM : JENNIE MURPHY
REL DIVISION
3 MAY 1996

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210/5
CENT 51
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cc PS/Secretary of State (L&B) - B
PS/PUS (L&B) - B
Mr Watkins - B
Mr Beeton
Miss Steele - B

- 1. MR ADAMS [AJA 3/5]
- 2. PS/SIR JOHN WHEELER (L&B) - B

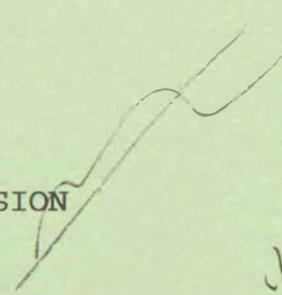
PQ FLYING EUROPEAN UNION FLAG

John Taylor MP has tabled a question about the flying of the European Union flag on European Day - 9 May. I attach a suitable reply which has been agreed with Central Secretariat.

(signed JM)

JENNIE MURPHY
RIGHTS AND EUROPEAN DIVISION
3 MAY 1996

*Each
Furling pt. - 630/95
15/5
Mr Gifford
Identity issues file.
13/5*



*In Watson's idea may be worth
dusting down at a future date.
AC*

*in Capital 0.5
Noty. It began to work to the Union flag 10/1
accompanied by the EU flag on Govt. buildings
might help soften nationalist discomfort, by
reminding us a more identity shared with
the Republic. (Was an idea for this
administration. I fear.) But what is the
any value as such?*

BM/REL1/970

*BM
4.1*

RESTRICTED

BACKGROUND NOTE

The RUC flies the Union flag on the same days as it flies from Government buildings except for the occasion of the Princess of Wales' birthday which appears to have been overlooked. *by whom?*

The flag stations for the Army in Northern Ireland are HQNI, the GOC's residence, Aldergrove, Ballykelly, Ballykinler, Palace Barracks, Ebrington and Hillsborough Castle. Flags are also flown *?* with approval, (in the spirit of Queen's Regulations but not specified in them) at the bases in Portadown, Ballymena, St Lucia Barracks and the Maze.

A review was carried out by the GOC into the flying of the Union flag, but HQNI advise that "rationalisation of this contentious subject should be reconsidered at a later date".

There is no indication from either the RUC or the Army that either have any plans to change the present flag flying arrangements.

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SPOB2/5557 File Ref: 005/012

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constant translations would not be practical and pointed out that Ministers do not accept the principle of bilingualism. With regard to towns and counties having to be addressed in English, Mr Watkins pointed out that there were legal reasons for this. He added that our approach had the aims of avoiding the language issue becoming divisive: there were signs that reforms were already sparking counter vailing interest in Ulster-Scots. Care was needed. Mr Donoghue then enquired about what the NI Court Service guidelines entailed. Mr Simpson confirmed that the Northern Ireland Court Service had issued its own guidelines along the same lines as those for Government Departments and were in effect exactly the same.

FLYING OF FLAGS

8. Mr Donoghue enquired about the position in respect of the flying of flags on Government buildings and RUC stations/army bases.

Government Buildings

9. Mr Watkins explained that the flying of flags remained a very emotive and delicate issue in Northern Ireland, as in other jurisdictions. The position is that there has not been any change in relation to Government buildings, ie there remain 20 days when flags are hoisted; 15 UK wide days as laid down in regulations by Royal Command and 5 additional days (New Year's Day, Easter, St Patrick's Day, 12th July and Christmas Day) which had been designated by the then Northern Ireland Government in the 1930s as additional flying of flag days in the Province. With regard to the Irish side's view that excessive flag flying should be curbed, Mr Watkins went on to say that technically the additional 5 days could be dropped relatively simply but he did not see any prospect of Ministers taking such a step for political reasons, especially at this stage of the peace process. A marginal change in the arrangements for flag flying would do little to assuage Nationalist sentiment whilst causing a disproportionate outrage within Unionist

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quarters. He stressed that such a move would not go unnoticed by Unionists - for instance there were periodical PQs on the matter. The Irish side might wish to reflect on the effect a change in practice, seen to be at the suggestion of the Irish Government, would have on the prospects for encouraging Mr Trimble to extend his discussions with them. Mr Donoghue enquired whether it would be possible for the Secretary of State to issue a direction that the flying of flags on the additional 5 days could be discretionary rather than mandatory. Mr Watkins emphasised that the Unionist reaction to this - which would inevitably become public - was also likely to be very intense.

10. There was then some discussion on the flying of flags on non-Government buildings, such as those of District Councils and NDPBs. Mr Donoghue suggested that HMG could issue guidelines to such bodies stating in general terms that respect for individuals should be preserved on particular occasions when deciding to fly flags. Mr Watkins and Mr Canavan stressed that this too would be divisive and potentially counterproductive; Unionist dominated District Councils would be likely to react by flying the Union Jack on every day of the year on all their buildings.

Army Bases

12. Mr Watkins explained that instructions on the flying of flags at army bases are determined by Queen's Regulations which specify those locations where the union flag is to be flown both within the UK and worldwide. In Northern Ireland there are 9 such 'flag stations'. As we understood it, the flag at Crossmaglen was removed because this base was not one of the specified flag stations.

RUC Stations

13. Mr Donoghue noted that the RUC have in its Force Code 19 days listed when flags are hoisted at RUC stations. He enquired about the dates of these. Mr Watkins explained that they were the same as

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those for Government Departments, with the exception of the Princess of Wales' Birthday, which appeared to have been overlooked.

LEGAL ISSUES

QC's Oath

14. Mr Donoghue sought the British side's view on what would happen if the Courts upheld the recent Judicial Review application by Mr Magee, who asserts that the Oath and Declaration required to be taken by newly appointed QCs in Northern Ireland amount to discrimination under Section 19 and 21 of the Northern Ireland Constitution Act 1973. Mr Watkins said that the case was of course sub judice, although he understood that it may not be too long before a decision. He explained that if the case was upheld, the Secretary of State could be expected to allow the practice to lapse. Mr Simpson added that this would probably be done by way of a letter to the Clerk of the Crown who is responsible for Oaths.

Juror's Oath

15. Mr Donoghue enquired about the position on the draft Juries (Northern Ireland) Order. Mr Simpson explained that the primary purpose of the Order was to modernise and consolidate Northern Ireland statute provisions on juries presently found in a number of enactments. He reported that the consultation period was now complete and the draft Order was expected to be laid by Christmas and to pass through both Houses in early 1996.

Court Procedures

16. Mr Donoghue enquired about the position on the use of the acclamation "God Save the Queen" in Courts in Northern Ireland. Mr Simpson said that he understood that there was no such acclamation in the High Court and Magistrates' Courts but only in the Crown and some County courts. He said that this was practised in the Crown

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