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Flags and Emblems

1. Under the Flags and Emblems (Display) Act (Northern Ireland), 1954, any person who prevents or threatens to interfere by force with the display of a Union Flag by another person on or in any lands or premises lawfully occupied by that other person shall be guilty of an offence.
2. Where any other flag or emblem is displayed, if a police officer, having regard to the time and date and circumstances of the display of that emblem, believes that its display may occasion a breach of the peace he may ask the person displaying the emblem to discontinue its display or cause it to be discontinued. If that requirement is not complied with or the person responsible for the display of the flag is not available or nobody is capable of complying with the requirement to remove it then the police officer may without a warrant enter any such lands or premises using such force as may be necessary and may remove and seize and detain such an emblem.
3. The Flags and Emblems Act is a cause of considerable concern to the minority community. This was most recently expressed at the SDLP Conference on 27 January when a motion was passed calling for the same rights of display for the Irish Tricolour as for the Union Flag. Delegates to the Conference emphasised that they were not asking simply for the repeal of the Flags and Emblems Act. What they wanted was equal status, equal protection and equality under the law for both flags.
4. There is no doubt that both flags are used by both sides in a provocative manner. This is particularly true when emotions run high for example around the 12th July or at funerals. If legislation could be introduced which would provide equality of treatment for the two flags this would have a positive effect within the minority community though it must be recognised that there are some in the majority community who would disagree. It would not however deal with the problem which arises when one group wishes to use its flag in a provocative manner towards the other group.

5. The Minister might wish to make the following points to Mr. Hurd:
 1. The Flags and Emblems Act is itself a matter of concern to the two communities.
 2. He would wish to see equality of treatment in legal terms in both flags, because of the two identities.
 3. The provocation given to the minority community by e.g. the flying of the Union flag on police stations in nationalist areas on 12 July, could be avoided were the security forces made more aware of the sensitivities.
 4. The provocative use of the Tricolour in paramilitary funerals and at other times should as far as possible not be allowed to become an occasion for a major confrontation with the security forces as the paramilitaries become the main beneficiaries.

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D. O'Ceallaigh

30 January, 1985.