

An Chartlann Náisiúnta
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I Agree with X
as X2.
Dr. O'Kelly.

Sec Ó Ceallaigh

Flying of Flags in Northern Ireland

1. I took the opportunity of a conversation this morning with Tony McCusker, Head of the Office of the First and Deputy First Ministers, to get clarification on what precisely had happened regarding the above during the ten weeks of devolution. He said that during that period there were two days on which, under existing practice, the Union Jack would have normally been flown over Government buildings - Christmas Day and New Year's Day. According to McCusker, an informal arrangement was arrived at by the Executive that the *status quo* would apply pending a broader understanding being arrived at, but that the application of the *status quo* would be left to the discretion of individual Ministers (McCusker described this as a "fudge"). In practice, the Union Jack was flown over Stormont and all Government Departments on those two days, with the exception of those headed by Sinn Féin Ministers - Education and Health.

2. McCusker said that it was an uneasy fudge, and that Trimble was unhappy with it, hence his raising of it now. McCusker said that the difficulty from Trimble's perspective is that there is no formal legislation governing the issue at central UK level. Trimble has been urging the British to introduce such UK-wide legislation.

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but that the latter are reluctant in the context of their overall devolution policy (they are afraid that seeking to impose from the centre new arrangements on flying the Union Jack would create all sorts of problems for them in Scotland and Wales, as well as Northern Ireland)

Comment

3. This is a complex issue and highly emotive issue. The Good Friday Agreement (see relevant extract from **Economic, Social and Cultural Issues Section** attached) expressly singles out the new institutions in terms of ensuring that the issue of symbols and emblems in their regard is handled in such a way as to promote "mutual respect rather than division". The Agreement specifically states that arrangements will be made to monitor the issue and "consider what action might be taken".

4. Against that background, two points are clear: (1) This matter will have to be taken forward in a careful, considered way and the securing of a consensus outcome will probably require considerable time (certainly more than is available between now and 22 May); (2) since the Agreement puts the emphasis on the new institutions, it would hardly be appropriate that an arrangement be imposed by the British Government for what is to apply in a devolved situation.

TOC

T O'Connor
9 May 2000

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5. All participants acknowledge the sensitivity of the use of symbols and emblems for public purposes, and the need in particular in creating the new institutions to ensure that such symbols and emblems are used in a manner which promotes mutual respect rather than division. Arrangements will be made to monitor this issue and consider what action might be required.

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Flying of the Union Jack in Northern Ireland

1. Further to Tim O'Connor's note on the flying of the Union flag in Northern Ireland, It is worth noting that the matter has been raised on several occasions with the British side through the Secretariat. We pushed for the creation of a commission to look at the issue and to recommend a code of conduct on the use flags and emblems in Government buildings.

2. The terms of reference of the commission would be taken directly from the Good Friday Agreement, namely to draw up proposals which would

> *"ensure that such symbols and emblems are used in a manner which promotes mutual respect rather than division".*

3. The British side refused our request, arguing that the issue should be left to the new devolved administration and it would be wrong to prejudge the issue. The present request is a complete reversal of their previous stand.

4. It would appear that any attempt to impose the symbols and emblems of one tradition on the devolved administration would constitute a breach of the Agreement. Apart from the section quoted by Tim O'Connor in the **Economic, Social and Cultural Issues Section**, the **Constitutional Section** states that in relation to Northern Ireland

> *"the power of the sovereign Government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and parity of esteem and of just and equal treatment for the identity, ethos and aspirations of both communities."*

5. It would be very difficult to reconcile the British request with either the Agreement or their previous policy stance on the issue.

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9 May 2000

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