

Date for answer: 14.12.84

December 1984

Written No

PETER ROBINSON (Belfast East) to ask the Secretary of State for Northern Ireland how many people have been found guilty of an offence under the Flags and Emblems (Display) Act (Northern Ireland) 1954 in Northern Ireland in each of the last 15 years; and how many have been (a) given a prison sentence (b) fined.

MR HURD

No prosecutions have been brought under the Flags and Emblems (Display) Act (Northern Ireland) 1954 in the 15 years since 1969.

## BACKGROUND NOTE

### MR ROBINSON'S QUESTIONS ON THE FLAGS AND EMBLEMS (DISPLAY) ACT (NORTHERN IRELAND) 1954

1. Section 1 of the 1954 Act makes it an offence to interfere with the display of the Union Flag. Section 2 empowers a police officer to remove or require the removal of any emblem or flag (except the Union Flag) which he thinks is likely to cause a breach of the peace and makes refusal to comply an offence. The Act does not in itself make illegal the flying of the Irish tricolour, but may have been exploited to force the removal of that flag on occasions by the threat of riot. It does seem to create a situation in which one faction may riot if a flag is removed and another if it is not.
2. Mr Robinson's interest in the Act may have arisen by recent events involving the display of a tricolour or may be because of Assembly discussions on the subject.
3. The Assembly debated the matter on 21 June 1983 and resolved, inter alia, to call for stringent enforcement of the 1954 Act. On 4 December 1984, the Rev Beattie recorded his opposition to any attempt by Government to repeal the Act and referred to a Belfast Newsletter article which speculated that this was about to happen. (Copy of the article attached). No other Assembly members spoke on that occasion and there was no division.
4. A rather similar question was asked last year by Lord Hylton and attached is a copy of the reply given in Hansard on 4 May 1983. In March 1979, the then Secretary of State replied to a question from Mr Gerry Fitt that there were no plans to repeal the Act, but that he would keep in mind the

recommendation of the Standing Advisory Commission on Human Rights (see 7 below).

5. There have been no prosecutions under the Act at least since 1969 for which records are currently available. The RUC consider that it is not needed and that section 3(1) of the Public Order Act (Northern Ireland) 1951 deals adequately with provocative conduct likely to lead to a breach of the peace. Any prosecution under the 1954 Act requires the authority of the Director of Public Prosecutions for Northern Ireland.
6. It would involve a major exercise to discover how many persons have been charged under the Act. Statistics are more readily available for persons actually proceeded against, but to obtain the number charged would entail circularising each police prosecution office in Northern Ireland and then a manual search through their local records. This would seem to involve disproportionate cost and time and therefore we have not asked the prosecuting authorities to consider initiating such an exercise.
7. The Standing Advisory Commission on Human Rights have on more than one occasions recommended that the Act should be repealed. They argue that the only question should be whether or not particular conduct is likely to lead to a breach of the peace and that no distinction should be drawn about the character of the flag itself, as in the rest of the United Kingdom.
8. Although this view may be thought (in the light of the Public Order Act) to exaggerate the indulgence allowed to fliers of the Union Flag and to oversimplify the issue of national emblems, there does not seem any use

\* Article 6(1) Public Order (NI) O. 1981. (NI L. 17)

for prosecutions under this Act at present. Its repeal, however, would be likely to be controversial and consideration would have to be given to the need for a police power to remove offensive emblems and to the need (if any) to protect specifically the flying of the Union Flag.