

PRIME MINISTER ^①

LITTER

Since you saw papers over the weekend, the attached letters from the Secretary of State for Transport and the Home Secretary have arrived.

Although in favour of removing Crown immunity for litter offences in general, both Mr Parkinson and Mr Waddington are seeking exemption as follows:

- for the inside Crown buildings but not for Crown land open to air (with certain exceptions eg prisons);

- for motorways: Mr Parkinson argues that the dangers and inconvenience of clearing motorways make it impossible to meet the standards in the new Code - which lay down standards in terms of visual appearance rather than frequency of litter clearance (as in the motorways own voluntary code).

On the latter point, surely it would be possible to draft the legislation/code of practice so as to place a binding duty on the Crown to maintain the motorways litter free which also recognises the special circumstances they present?

The Home Secretary's letter also expresses profound doubts about the use of police to enforce spot fines for litter offences. I have already recorded your concern that an effective solution to the problem of spot-fining should be found. You do not need to comment further on this point unless you wish to.

Do you agree:

- that the inside of Crown buildings should have no litter duty placed on them? *Yes*

- with Mr Parkinson's wish to exempt motorways from a binding duty? *No - the motorways are a national highway - must be cleared.*

- or would you prefer that there should be a duty in the legislation in respect of motorways but one that recognises the special circumstances? *Yes*

- to note Mr Waddington's points on enforcement but not to comment on them? *Yes*

CS

Caroline Slocock

20 November 1989



THE DEPARTMENT
OF TRANSPORT



CCAS

FROM THE SECRETARY OF STATE

2 MARSHAM STREET LONDON SW1P 3EB
TELEPHONE 01-276 3000

The Rt Hon Chris Patten MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

My Ref:

Your Ref:

Prime Minister
Do you agree that
motorways should
be exempt from
a duty otherwise
placed on the Crown?

Dear Chris,

20 NOV 1989

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LITTER

Thank you for sending me a copy of your letter of 13 November to Geoffrey Howe, seeking colleagues' agreement to a number of changes to our legislative proposals for litter.

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I accept that the new litter-clearing duty and associated provisions should, in general, apply to the Crown. But the special problems of dealing with litter on motorways argue strongly for them to be exempt from the new duty. Collecting litter on motorways is a particularly dangerous business for those who do it and for traffic, and it often requires lanes to be coned off; for example, to deal with central reserves. Furthermore, lane closures to deal with litter have to be co-ordinated with other maintenance work if traffic congestion is to be kept to a minimum and adequate safety preserved. Therefore, it is important for us to retain complete control over when and where litter clearance is carried out. I should add that we already have a published code of practice that covers litter clearance on motorways, and I am reviewing that to see if we can improve standards further on those sections of motorway where litter is a problem.

Our code of practice prescribes standards in terms of frequencies for litter clearance. The code envisaged under the new statutory duty will prescribe standards in terms of visual appearance and the proportion of time that one might expect a certain level of appearance to be maintained. This will require action to clear litter to be taken promptly whenever visual appearance drops below the prescribed standard. That approach could not be adopted for motorways without either the risk of additional costly delays to traffic or frequent references to the courts of litter on motorways. My aim is to keep motorways clear of litter without those unnecessary risks.

All-purpose trunk roads will, I presume, automatically be excluded from the Crown duty, because the Bill is to place responsibility for clearing litter from these roads solely on District and Borough Councils.

As regards the proposal to place an obligation on commercial frontagers to deal with litter on the pavement outside their premises, I have no objection, provided we avoid any confusion arising between that obligation and the new duty we are placing on Districts and Boroughs.

I am copying this to the Prime Minister, to other colleagues on "H", Tom King, the Lord Chancellor, the Attorney General and to Sir Robin Butler.

Yours truly,
Cecil

CECIL PARKINSON

Env. Affairs - letter.



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~~CCPS~~



QUEEN ANNE'S GATE LONDON SW1H 9AT

17 November 1989

Dear Secretary of State

*attached - 72 M
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will obtain if
required*

Thank you for copying to me your letter of 13 November to Geoffrey Howe. You put forward two proposals which are of interest to me: the extension of police powers and the removal of Crown immunity.

Police powers

You propose that officials should explore further the possibility of police officers having the power to issue fixed penalty notices for littering. You thought this would be helpful in view of the lack of power for local authority officers to demand an offender's name and address. You also suggested that it might lessen the enforcement burden on the police.

I note that a number of respondents have pointed to potential enforcement problems if there is no power to demand an offender's name and address. However the evidence gathered during the first few months of the Westminster experiment does not support this view. In practice there were very few cases where it was necessary to issue fixed penalty notices at all, and it appears that local authority officers did not find it necessary to involve the police. Your consultation document correctly underlines the fact that education and persuasion rather than punishment are the aims of the scheme, and this policy is best served, in my view, by leaving primary enforcement to local authorities.

I cannot accept, either, the argument that giving the police power to issue fixed penalty notices would lessen the burden on them. It is not clear to me that fewer cases in total would reach the courts each year, since fixed penalty notices are likely to be issued for offences which at present are largely

/unenforced and

The Rt Hon Christopher Patten
Secretary of State for the Environment
2 Marsham Street
LONDON, SW1P 3EB



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unenforced and which therefore do not at present involve the police in work. My fear is that if the police are given the power to issue fixed penalty notices they would come under pressure from some local authorities to become involved in dealing with offenders whom they would currently regard as very low priority, and for whom they already have adequate power, short of prosecution, if they do think it necessary to take action - for instance, warning them verbally or possibly issuing a formal caution. In my view enforcement of these minor, essentially regulatory offences must rest with the local authorities, and I hope you can agree to drop this proposal.

You also propose the waiving of Crown Immunity for Crown land to which the public has access because the Crown should be seen to be under the same obligations as other bodies. As far as the interior of buildings is concerned, the Crown does not, by and large, suffer the litter problems of railway stations and airports, and no such obligation is being placed on, say, banks and private sector office buildings, which are similar in function to many Crown buildings. In addition, it may be impracticable to define simply which areas are excluded. In this building, and no doubt in similar buildings in London, the public have regular access to the foyer, and occasional access to most officers, including my own. There are, however, some areas from which the public are excluded. I do not believe, therefore, that the waiving of Crown Immunity in respect of Crown land not open to the air is either necessary or practicable.

I would, however, have no objection to the waiving of Crown Immunity in respect of Crown land open to the air, although some important exclusions will be necessary in relation to prisons and to premises occupied by the security and intelligence services. I understand that our officials are discussing these matters, and I would wish to be assured that they have been fully resolved before the Bill goes forward.

Copies of this letter go to the recipients of yours.



Sera Denk
(Approved by the Home Secretary
and signed in his absence)

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