



NORTHERN IRELAND OFFICE

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Mr. Dutton
I would like to await
the Secretary's reply before we let
him know the outcome of this correspondence
It is for and can
be cancelled.
27th October 1989

F Kane Esq
Planning Service
Department of the Environment
Commonwealth House
Castle Street
BELFAST BT1 1GH

Your reference

Our reference

Date

27th October 1989

Dear Mr Kane
3/10.

Mr Dutton
Band have the paper pl.

7
31/10

ELECTION POSTERS

Tom Watson in our Political Affairs Division sent me a copy of his letter of 12 October to you in view of this division's responsibility for electoral law.

As I understand it, it is already the position under Article 8(2) of the Planning (Control of Advertisements) Regulations (Northern Ireland) 1973 that express consent is not required for election posters provided that they are removed within 14 days of the close of the poll. (This is, of course, in line with the position in England and Wales where the relevant legislation is Article 9 of the Town and Country (Control of Advertisements) Regulations 1984). I therefore assume that what Mr Needham has in mind is giving additional teeth to the enforcement provisions in the parent Order, which at present bite only on the owner or occupier of the land and so provide no sanction in the case of posters affixed to lamp-posts or displayed on common land. (Again this is in line with the position in GB).

We see no objection in principle to requiring whoever is responsible for putting up election posters to remove them after polling day; indeed this is arguably implicit in the present Regulations. But as Tom Watson suggests, enforcement may present practical difficulties.

One major problem that occurs to us is that political parties have no existence in law and therefore cannot be prosecuted. It is therefore not clear against whom an action for failing to remove a general exhortation to vote for a particular party might lie. One possibility would be to make the General Secretary of the party liable, but this seems more than a little harsh.

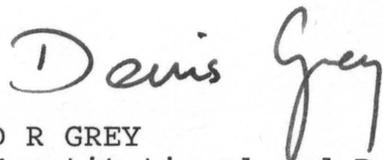
In the case of posters soliciting support for named candidates, the sensible course would probably be to make the candidates's election agent liable for their non-removal. (Under electoral law a candidate
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who does not appoint an agent in deemed to be acting as his own agent.) Even here, however, the reasonable defences that would normally apply, might prove to be so broad as render enforcement virtually impossible. (I have in mind that it would be a defence to show either that the poster was not one of those printed on the candidate's behalf or that, although, a bona fide poster, it had not been posted in its present location by the agent or his representatives.)

On the practical level, we cannot see that over-lapping elections would present any particular difficulties. General exhortations to vote for a particular party could be left up; posters for particular candidates would have to be taken down (or, more probably, covered by posters for the later election). Nor do we share the view that the legislation need have regard to a party's reasons for removing their election material after polling day. It also seems unlikely that the prospect of the candidate's agent being fined for not removing a poster will prevent supporters of other candidates from removing it before polling day. But presumably we shall need to take into account the possibility that in future it might be replaced once the period of grace has elapsed.

I would be grateful if you would keep this division, as well as the Political Affairs Division, informed of any future developments. We, in turn, will ensure that the Chief Electoral Officer is aware of what is being considered.

Yours sincerely



D R GREY
Constitutional and Political Division

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