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Our Ref 4/LCN/S.1678 B Your Ref NO/DAW/DP Date 8th February 1982

D. Webb, Esq.,
N.C.R.O.P.A.
15 Sloane Court West,
Chelsea,
London, SW3 4TD.

Dear Mr. Webb,

Thank you for your letter of the 4th instant, together with enclosure.

The position so far as I am concerned as alleged by the Attorney-General's office is incorrect, and I refer in particular to paragraph two thereof. As a matter of interest I enclose herewith Mr. Justice Ashworth's Summing-up at Birmingham Crown Court on the 19th November 1974. This was a case involving two trials of Mr. Lindsay in 1974 at Birmingham Crown Court, the first resulted in a hung-jury and Mr. Justice Ashworth presided over the re-trial. The position was that Mr. Lindsay was accused under Section 2 of the Obscene Publications Act for having conspired with others to publish for gain certain obscene articles. In order for the prosecution to have succeeded on that trial there were three elements necessary.

1. The conspiracy element
2. The publication for gain in the United Kingdom
3. Obscenity.

Mr. Justice Ashworth's Summing-up is forty pages long. On page one he directs the jury generally as to the principles of proof of guilt. This is basically continued on page two. Page three deals with the conspiracy element in which the Judge says that there is no evidence to the contrary as to the conspiracy element. Namely that the Defence has not raised any answers thereto and in fact has in reality not challenged that there was a conspiracy.

So far as publication in the United Kingdom is concerned this is dealt with on page five and virtually dismissed by the Judge at the top of page six when he refers to letters posted in this country with an English post mark and sent to people either in England or Wales. It could hardly therefore be said by the Attorney-General's office that the jury decided that Mr. Lindsay was acquitted on the grounds that there was no publication in the United Kingdom.

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The remaining 34 pages are related solely to the question of whether the films were obscene or not. The only real live issue before that court was the test of obscenity, and whilst clearly it is not possible to say what was in the jury's mind at the time there can be little doubt that they decided this matter on the basis that the films themselves were not obscene and on no other aspect.

I would particularly refer you to paragraph three on page six of Mr. Justice Ashworth's summing-up when he says 'next - and this lies at the heart of the case - the prosecution must satisfy you so that you are sure that the films were obscene.' I consider that Miss Butler is totally wrong when she says in paragraph four that you would appreciate that it is publication in this country which is the essence of the offence. The essence of the offence can hardly be publication in this country when a film is being sold in a shop in Berwick Street or shown in a cinema in Soho, Blackpool or Birmingham. The essence of the offence is not so far as we are concerned, publication in the United Kingdom, but whether the films are obscene.

Quite frankly I have never read such nonsense.

I repeat that the essence of all these trials is obscenity or no.

When we met I went through quite carefully with you the whole history of the various Lindsay trials. There is however one subsequent aspect which I consider extremely important and one which I think you should bring to the notice of the Attorney-General's office as a matter of immediate urgency.

At the recent series of Knightsbridge trials in October of last year trial 1 consisted of two video cassettes of films titled - Intensive Care and Thrilling Drilling and one reel of 8mm film containing six different titles. As you are aware Mr. Lindsay was acquitted at Knightsbridge on the basis that the films were not obscene. He now faces a prosecution at Preston Crown Court which was committed from Blackpool Magistrates Court in July of last year on a charge under Section 2 of the Obscene Publications Act relating to three video cassettes. The titles of these three video cassettes are - Intensive Care, Thrilling Drilling and one other called Swedish Massage. The Blackpool prosecution is being brought under the auspices of The Director of Public Prosecutions and therefore under the direct authority of the Attorney-General's office. I would like to know what Miss Butler has to say about that. Both Intensive Care and Thrilling Drilling have been acquitted at Knightsbridge and yet Mr. Lindsay is shortly to be prosecuted before the Preston Crown Court on two films which have recently been acquitted.

In addition Mr. Lindsay faces a further Crown Court prosecution at Birmingham Crown Court on which he has been committed and some of the films that will be shown to the jury at Birmingham have already been acquitted both at Birmingham in 1974 and again at the Old Bailey in 1977. In that respect I would refer you to page 19 of Mr. Justice Ashworth's Summing-up when he has said that of the films that were shown to the jury in the 1974 trial that they were representative of numerous other films which had been seized by the police in their raids leading up to the 1974 prosecution.

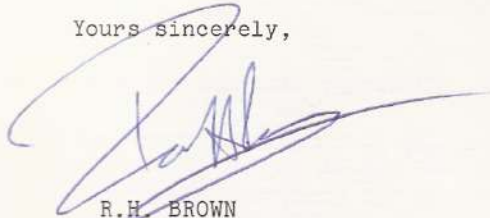
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In addition we have recently been informed by Knightsbridge Crown Court that a second series of trials is now fixed for May 10th 1982 and although this is not the responsibility of the Director of Public Prosecutions or the Attorney-General as these are police prosecutions nevertheless it is a matter of interest to know that the raids in respect of the second series of trials are in the majority raids which took place on Mr. Lindsay's cinema club in Soho, prior to or at the same time as the raids upon which he was recently acquitted in October at Knightsbridge.

If there is any further information you require please do not hesitate to contact me and in the meantime I shall be most interested to see your reply to Miss Butler's letter and any further communication you have from her relating to this matter.

Kind regards.

Yours sincerely,



R.H. BROWN

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