NO/DAW/DP 13th April, 1982.

The Rt. Hon. Sir Frederick Lawton,
Lord Justice of Appeal,
2, Harcourt Buildings,
Temple,
London, E.C.4.

Dear Sir Frederick,

In giving the judgment of the Court of Appeal on March 16th, when dismissing an appeal by Mr. Christopher Holloway against a six months' prison sentence imposed on him at Knightsbridge Crown Court on January 22nd, after being convicted of offences of having so-called "obscene" articles for publication for gain contrary to Section 2(1) of the Obscene Publications Act of 1959, you made a number of comments which are, to say the least, contentious, and a number of others which are, in my view, and in the view of the National Campaign for the Reform of the Obscene Publications Acts, frankly nonsensical.

First of all, as an intelligent man, you must be aware that the Obscene Publications Acts are an absurdity. "Obscenity" is a totally subjective concept and its legal definition, incorporated in the 1959 Act as that which would be "such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it", is equally as absurd since the terms "deprave" and "corrupt" are capable only of subjective interpretation also. As R.M. Jackson, one time Downing Professor of the Laws of England at Cambridge University, wrote in his submission to the 1968 Arts Council's Working Party on the Obscenity Laws:-

> "The supposed depravity and corruption produced by obscene articles is a matter of conjecture. No hard evidence can be put forward, for nobody can demonstrate that anybody has ever been depraved by a particular obscene article. A decision that an article would have such a tendency is based entirely upon opinion unsupported by verifiable facts."

The law, as I understand it, deals only with facts. Therefore the great stress you placed on the fact that Mr. Holloway was convicted by a jury, which had thus, presumably, applied the "deprave and corrupt" legal test, as required by the 1959 Act, a test that, as Professor Jackson has shown, would be based entirely upon the idiosyncratic whims and fancies of the individual members of that particular jury. In other words their verdict is nothing more than the result of a lottery. Justice has nothing to do with it for not even a wise and learned judge like yourself is able to rule objectively on such an issue, let alone a randomly selected group of twelve members of the general public, who, perhaps

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through the luck (or rather, misfortune!) of the draw, all happen to be bigots, puritans, religious ~~fanatics~~, hypocrites, antiquated etc. - or perhaps a combination of all these. A jury which happened to be thus composed could hardly be said to be"reflecting the present-day view about these matters", as you assert. If this were indeed true, why are so many other juries, in other similar trials, refusing to convict?

You made the point yourself that the Holloway case was important "because it was the first for sometime in which the court was able to decide what should be the sentencing policy in regard to the commercial exploitation of "pornography". It is clear as clear that you, yourself, have personally strongly disapproved of these other juries finding in the accused's favour in such cases and have thus seized upon this golden opportunity, initiated by Judge Morton's savage sentence at Knightsbridge Crown Court, to set a precedent by not only upholding the judge's decision, but by ordering other courts to rule likewise in other similar cases, with the undisguised intention of deterring all others and putting them out of business. In other words, total censorship.

So on the one hand we have the Home Secretary asking the judiciary to reduce drastically the number of "offenders" they commit to prison, to help reduce our 'obscenely'(and I use that word in this context advisedly) over-crowded prisons, and you on the other ordering still more people to prison, whether they are first offenders or not ~~or whether their crimes are victimless or not~~ and irrespective of the fact that their "crimes" are victimless.

Secondly, irrespective of the fact that the interpretation and implementation of these ridiculously repressive and out-moded laws is, I regretfully have to accept, your job, it is arrogant and irresponsible of you to disseminate emotive statements about sexually explicit material (as I prefer to call it, rather than 'pornography') which are highly personal and, as far as I am concerned, grossly inaccurate. You used phrases like "that filthy trade" and "that filthy and illegal trade". In my view, sex is only filthy to the filthy-minded, and how can it be illegal if, as I have said already, many juries attest in the courts that it would not "deprave and corrupt" and that it has not, thus, broken the law? You also said that the commercial exploitation of pornography "was an evil which had got to be stopped". That may be your personal opinion. It is not the opinion of all the really responsible major world investigations into pornography which have taken place during the past sixteen years, including the 1966 Danish Forensic Medicine Council's Report to the Danish Penal Code Council, the Arts Council of Great Britain's Report on the Workings of the Obscenity Laws in 1968, the United States Presidential Commission on Obscenity and Pornography in 1970 and, in 1979, the Home Office Committee on Obscenity and Film Censorship (the Williams Committee). They have all reached the unanimous conclusion that pornography is basically harmless and should be freely available to those adults who desire it. How can it thus be "evil" if it is harmless? I would respectfully suggest that, if you wish to lecture us about the real "evils" in our society, you should check the facts first. For example, alcohol and cigarettes are both freely available in this country and their sales provide the Exchequer with enormous revenues in the process. Alcohol and cigarettes both can and do actually kill people. Yet they are both deemed socially acceptable in a free society. According to you, pornography is not but who ever heard of anyone being even harmed by it, let alone killed? Your case is indefensible. It is about time this country, and particularly its antediluvian Establishment, got this matter into some kind of sensible and proper perspective. What is required is a complete, comprehensive liberalisation of our censorship laws, not still more repressive measures to further restrict our freedom of choice, either by Government legislation or draconian judicial edicts like yours.

It is an undeniable fact that this country now has more censorship than virtually any other of the so-called "free" Western World. All these~~other~~

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countries have long since had the great good common-sense to dispense with the kind of ridiculously out-moded censorship laws to which we, in this country, are still subjected. They cannot all be wrong. It could just be, however, that you are. As Heine wrote "Where books are burned, in the end people too get burned" and I am forever mindful that Hitler began his rise to power in Nazi Germany by burning books and ended up by burning people from the gas chambers of Belsen, Da Dachau and Auschwitz.

Yours sincerely,

David Webb,
Organiser,
National Campaign for the Reform of the Obscene Publications Acts.

* Judge Morton's sentencing policy has certainly not been shared by many of his brother judges who have not only not subscribed to his interpretation of justice, but have openly and heavily criticised the police for persistently pursuing thes ludicrous cases at enormous cost to the taxpayer. Judge Cassel did so on 5th March 1981 and so did Judge Babington on 29th October 1981, both at Knightsbridge Crown Court.

Copies to

The Rt Hon. Lord Hailsham, Lord Chancellor,
The Rt. Hon William Whitelaw, CH, MC, Secretary of State for the Home Dept.
The Hon. Sir Kenneth Jupp, M.C., Justice of the High Court
The Hon Sir. John Thompson, Justice of the High Court.
His Honour Judge Morton, Circuit Judge.
Mr. Christopher Holloway.
Sir Michael Havers, QC, MP, Attorney-General.