

NØ/DAW/DP

26th April, 1982.

The Rt. Hon. The Lord Hailsham, CH, FRS, DCL, LL.d,  
Lord High Chancellor,  
House of Lords,  
Westminster,  
London, SW1A 0AA.

Dear Lord Hailsham,

Thank you for the reply to my letter of 15th April from Miss J. Waine, dated 20th April (Ref: L12/18/06).

With great respect, I do not accept that Lord Chancellors cannot nor do not intervene in judicial business. I can immediately call to mind a number of cases where a Lord Chancellor has intervened, taken up a position and disciplined, or atleast rebuked, an offending or out-of-line member of the judiciary, of which the Lord Chancellor is the head, whether a Government Minister or not. You are surely not suggesting that the judiciary are accountable to no-one, not even their boss?

I greatly deplore the growing practice of Government Ministers shirking their responsibilities by using the convenient device of non-intervention in matters concerning the implementation, administration and interpretation of the law for alleged reasons of preserving the independence of the involved agencies. This never seems to be an insurmountable barrier when it suits a particular Minister's convenience to ignore it.

Be that as it may, in your capacity as a Government Minister and member of the Cabinet, may I ask you, therefore, if you will introduce emergency legislation in Parliament, to prevent arrogant, biased and ruthless judges from sending people to prison for non-violent crimes, and especially first offenders, when they have been specifically requested not to do so by the Home Secretary, in order to help reduce our already dangerously over-crowded prisons, as I mentioned in my previous letter?

When Mr. Whitelaw made that request, he was reported as saying that he would not bring in legislation to achieve this because he had every confidence that the judiciary would respond without it. Now it has become apparent that they have absolutely no intention of complying with that request (viz. the Holloway and Lindsay cases), and since you maintain that it "is not open to you" to intervene in judicial business, legislation would appear to be the only answer. That is to say that Parliament must change the law or laws wherein maximum sentences are laid down and to which Miss Waine referred in her letter.

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She went on to say that "it is for the courts alone to determine the appropriate penalty in any particular crime". Notwithstanding that it is scandalous that Mr. Holloway's and Mr. Lindsay's activities should be "crimes" at all in this country, the Home Secretary quite clearly does not share Miss Waino's assertion. Mr. Whitelaw's way of proceeding has presumably been endorsed by the Government and thus by yourself.

It surely cannot be right for this country, not only to continue to send people to prison for selling sex publications, but to do so on an even greater scale than heretofore, when, just twenty-one miles away across the English Channel, the practice is quite legal, as it is in virtually all other "free" Western World countries, including the U.S.A. People on the Continent and in the United States are shocked and stunned when they learn that people in this country are being imprisoned in this way. I cannot believe that any really loyal member of the Conservative Party, as you are, can possibly condone such savage judicial treatment and defend the retention of the cruelly repressive Obscene Publications Acts. It is totally contrary to the much-flaunted Conservative view of individual liberty. In a BBC TV "Panorama" programme on the 11th January 1977 Mrs. Thatcher said:-

"The whole philosophy of the Conservative Party is based on freedom of the individual",

and, on the BBC Radio 2 "Jimmy Young" programme on 31st January 1979:-

"The liberty of the subject is the Conservative philosophy".

Since the present Government, her Government, came to power, legislation has been, or is currently being, enacted which is diametrically opposed to those noble sentiments.

The Indecent Displays (Control) Act 1981, which is more about prohibition than control and is therefore simply another censorship measure, although ostensibly a private member's Bill, was strongly supported by the Government. The frighteningly repressive measures for the licensing of sex establishments, added with "indecent" haste to the Local Government (Miscellaneous Provisions) Bill and which give local authorities enormous powers to ban completely all such establishments without right of appeal, are nearly on the Statute Book. Another private member's Bill, the Cinematograph Bill, is really nothing of the kind. It is a Home Office measure which is merely using Mr. Peter Lloyd M.P. to do its own dirty work of bringing in yet another censorship law. This Bill will ban all private commercial cinema clubs "at a stroke" and effectively render all films shown publicly in this country to the kind of State censorship so strongly condemned in the totalitarian countries of the Eastern European Block. As if these weren't enough, those appalling Lords Halsbury and Nugent, have introduced a Bill to ban the dissemination of 'pornography' completely, although I understand that this has little chance of becoming law.

These are all viciously restrictive, pro-censorship measures and all seriously reduce our freedom, instead of, as the Williams Committee recommended, increase it. It is a highly disturbing and depressing situation.

Since I have written this letter to you in your capacity as a Government Minister, rather than as Head of the judiciary, I hope it will elicit a more positive response and will prompt, in turn, the Government to take immediate action on the points I have raised and so stop the rot of repression.

Yours sincerely,

David Webb, Organiser, N.C.R.O.P.A.