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# NATIONAL CAMPAIGN FOR THE REFORM OF THE OBSCENE PUBLICATIONS ACTS

# N C R O P A

ORGANISER — David Webb, 15 Sloane Court West, Chelsea, London SW3 4TD — Tel: 01-730 9537

COMMITTEE — The Viscount Norwich, F.R.S.L., Gerald Fowler, M.A.Hon., F.A.B.E.,  
E.A.C. Goodman, LL.B.(Sol), Clifford Hanley, Pamela Manson, Eric E. Miller,  
Dr. Christine Pickard, M.B., Ch.B., Dr. Brian Richards, M.B., B.Ch., William J. Wright, B.A., M.A.I.E.  
David Kennington

The N.C.R.O.P.A. is affiliated to the National Council for Civil Liberties

NO/DAW/DP

16th February 1983

Sir Kenneth Newman,  
Chief Commissioner of the Metropolis,  
New Scotland Yard,  
London, S.W.1.

Dear Sir Kenneth,

## POLICE RAIDS ON SEX ESTABLISHMENTS

The NATIONAL CAMPAIGN FOR THE REFORM OF THE OBSCENE PUBLICATIONS ACTS is extremely concerned about the massive police raids carried out during the week ending 5th February 1983 by officers of New Scotland Yard's Obscene Publications Department, under your jurisdiction, and what was, in our opinion, the subsequent grossly improper handling of publicity for those operations.

The raids, according to press and broadcasting reports and interviews, were under the direction of Commander Pat Carson and Chief Superintendent Peter Kruger and were carried out under the Obscene Publications Acts. The N.C.R.O.P.A.'s profound disapproval of these iniquitous Acts will, of course, come as no surprise to you and, as our name indicates, our whole raison d'etre is to bring about their demise or, at the very least, drastic reform and liberalisation which will bring this country into line with virtually all others in the so-called "free" Western World. You may well retort that this is of no concern to the police whose job it is to enforce the law as it now stands, and not as law reform pressure groups, like ourselves, would wish it to be. In normal areas of law enforcement that response would indeed be appropriate but the Obscene Publications Acts are anything but normal.

The legal definition of "obscene" material is, as you know, that which would tend to "deprave and corrupt" persons who are likely to read, see or hear it. According to many of our most eminent intellects, however, it is impossible for anyone to demonstrate that anybody has ever been "depraved" or "corrupted" by a particular "obscene" article (e.g. R.M. Jackson, Professor of the Laws of England at Cambridge University in his evidence to the Arts Council of Great Britain's Working Party on the Workings of the Obscene Publications Acts 1968). Nonetheless, this is precisely what juries are asked to decide. It is hardly surprising, therefore, that when such cases are sent for trial, verdicts of not guilty are given for a great many of them. That means the defendants have not thus published "obscene" material, have not thus broken the law and the police prosecution has not thus succeeded.

The police often remind the public that they have "discretionary" powers as to whether or not action is taken in individual cases. Similarly, the Director of

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Public Prosecutions often justifies his refusal to institute legal proceedings in particular cases (especially those involving police officers) by claiming that a conviction is unlikely. Nowhere in British law is the likelihood of conviction less certain than under the absurdly arbitrary Obscene Publications Acts. In such circumstances, therefore, we maintain it is only right and proper that your "discretionary" powers should be exercised much more flexibly, more reasonably and, indeed, more responsibly. In effect we are saying that repressive police operations, like those carried out in this instance against harmless sex establishments, are indefensible and should cease, saving hundreds of thousands of pounds of taxpayers' money and thousands of valuable police man hours in the process. The waste of precious resources for such an unproductive and unnecessary purpose cannot possibly be justified and must be contrary to the public interest.

Even when sex establishments are raided by police, it is totally unnecessary for hundreds of thousands of items to be impounded. One, or at most a few copies only of each suspect publication (book, magazine or film) need be seized; merely enough copies for a judge and jury's use. According to your press conference and broadcast reports of the operations in question, more than a million items were seized in "the biggest haul ever made in Britain", with an estimated market value of £5,000,000. There appears to be only one reason for depriving the owners of such a vast amount of their merchandise in advance of any Court's ruling on its legality, and that is to render them unable to continue in business. Such police practices were strongly condemned by Judge Cassel in Knightsbridge Crown Court on 17th March 1981 in a case (R. v Browlie) under the Obscene Publications Acts concerning 8mm films. He said "To repeatedly raid and take away similar films was a decision which, in effect, is an act of censorship. It is an attempt to put the man out of business and I deplore it". Judge Cassel's sharp rebuke to the police has obviously gone unheeded by your officers involved in the operations of the first week of February.

We are also most concerned about the police handling of publicity for these raids. An elaborately stage-managed press conference was held at Scotland Yard, to which many press and media men and women were invited en masse, as well as television news cameras. As a result the police raids received huge media coverage. At this conference, and in various radio, television and press interviews subsequently, your officers constantly referred to the seizure of quantities of "pornographic" material. When we telephoned Scotland Yard's Press Office, we were transferred to the Obscene Publications Department and asked what the police meant by "pornographic". The spokesman there said it was that which would contravene the Obscene Publications Acts, i.e. that which would, according to the legal definition, "deprave and corrupt". In other words, by constantly referring to this as yet unjudged, seized material as "pornographic", the police were preempting the findings of a court of law, and themselves determining that it was "obscene" and thus illegal. They were in fact acting as their own judge and jury instead of rightfully leaving this to the Courts in the event of any charges being brought as a result of these seizures. Apart from being a blatant usurpation of the authority of the courts, this widespread public dissemination of the highly subjective police views on the seized material before the outcome of any possible legal proceedings is, in our view, grossly irresponsible and could seriously prejudice the fair trial of any defendant involved in a case arising therefrom, to which he or she is entitled as of right.

If the press and media had, on their own initiative, reported that this seized material was "obscene" before any cases came to court, they would be in serious contempt, as several recent cases brought by the Attorney General have shown. For the police themselves to do so is surely most improper and we condemn it. The interview Commander Carson gave, which was transmitted on BBC Television News, and the interview Chief Superintendent Kruger gave, which was broadcast by LBC Radio, were particularly regrettable in that they were both delivered in highly condemnatory tones, lacked impartiality and contained emotive remarks which could

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quite likely improperly influence the judgement of potential jurors. Phrases like "There is a growth industry in sex" and "Multi-million pound business. Many millions more we can't get at - yet!", convey the impression that the material seized has already been convicted as being unlawful. In truth it has not and, if and when it does go to court, as we have already pointed out, it is more than possible it will be deemed not to have contravened the law.

Finally, it has been widely reported that these raids were carried out at the instigation of complaints from the public. Are we to assume, therefore, that, since all the raids were made on premises owned by a single company (Quietlynn Ltd.), these "complaints from the public" were directed specifically against this sex shop chain only, and that the many other sex shops operating in very similar circumstances in the Metropolitan Police area were not complained of and that because no complaints were received against them, no action was taken? In any event, the discretionary power of the police whether or not to prosecute is not dependent upon whether or not the police have received complaints from the public. It is, surely, whether or not it is in the public interest to do so. On this point it is particularly opportune to refer to the new guidelines issued only two days ago by Sir Michael Havers, Q.C., the Attorney General, to chief officers of police and which are, as he himself said, specifically aimed at reducing the number of unnecessary prosecutions. In no other area of the law are there as many unnecessary prosecutions as that concerned with so-called "obscene" publications.

There must be a return to sanity and objectivity on this emotively overblown issue and the National Campaign for the Reform of the Obscene Publications Acts therefore applauds Sir Michael's welcome, if somewhat belated, initiative. We trust that you will do the same and will act on it and on the criticisms against the police we have herein levelled.

Yours sincerely,

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

Copies to:- The Rt. Hon. William Whitelaw, CH, MP, Home Secretary  
The Rt. Hon. Sir Michael Havers, QC, MP, Attorney General  
Sir Thomas Hetherington, QC, Director of Public Prosecutions  
Ms. Patricia Hewitt, General Secretary National Council for  
Civil Liberties