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NATIONAL CAMPAIGN FOR THE REFORM  
OF THE OBSCENE PUBLICATIONS ACTS

N C R O P A

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

NO/DAW/DP

15th March 1988

TO ALL 20 MEMBERS OF STANDING COMMITTEE 'H', (See Following List)  
HOUSE OF COMMONS.

RE: CRIMINAL JUSTICE BILL

The National Campaign for the Reform of the Obscene Publications Acts (NCROPA) is, and has always been, solely concerned with the freedom of expression of and for 'consenting adults'. It has never been opposed to measures, albeit as minimal as possible, for the 'protection' of children and it is not, therefore, opposed in principle to the new Clause, concerning the possession of "indecent" photographs of children, which the Government has proposed for inclusion in the Criminal Justice Bill, currently undergoing your detailed consideration in Standing Committee.

The NCROPA does, however, have a number of reservations about the Clause, the most serious of which concern definition and interpretation, although we also have worries about the efficacy and ethos of introducing any measure which legislates against 'victimless crime', as is the mere possession of an 'indecent' photograph of a child or, indeed, anyone else. The logical application and extension elsewhere of this principle embodied in the new Clause is that the possession of any photograph of any illegal act (e.g. newspaper pictures of murder, criminal assaults, torture, cruelty to animals etc., etc.) should be made a criminal offence. We very much hope that you will discuss this aspect in Committee, because the implications of endorsing such a philosophy, were it to be more widely extended, would be truly alarming and totally incompatible with our concept of a 'free society'.

I list below our more specific line-by-line criticisms and suggestions for, we trust, your careful appraisal:-

Line 1 - Section (1). The word 'indecent' is a vague, imprecise and totally subjective term (as already demonstrated by the operative uncertainties and ambiguities of the 1876 Customs Consolidation Act and the Indecent Displays (Control) Act 1981, both of which incorporate the term without definition or qualification). We think, therefore, that for the purposes of this Bill, it should be clearly defined.

Line 4 - Section (2). The terminology is 'sexist' - "a defence for him to prove ..." etc. Why is it assumed that only males are likely to offend under this Clause? This 'sexist' wording is used through-

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out. In theory, as the wording in the Clause presently stands, a female would be unable to avail herself of the three defences ( (a), (b) and (c) in this Section) available to males. We think this inequality should be remedied.

Line 5 - Section (2), Sub-section (a). What constitutes a "legitimate" reason for possession? Again, no definition is given and we believe this is dangerously vague. Allowable, "legitimate reasons" for being in possession of such a photograph should be specified.

Line 10 - Section (2), Sub-section (c). Yet again, an imprecise term - "unreasonable time" is used. How would a Court assess what is an "unreasonable time, as opposed to a "reasonable time"? And again, therefore, we believe some qualification should be given.

We would very much welcome your comments and re-action to our observations.

Yours sincerely,

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