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20th January 1994

The Rt. Hon. Nicholas Scott, MBE, JP, MP,
Minister of State for Social Security and
Disabled People,

House of Commons,

Westminster,

London,

SW1A 0AA.

Thank you so much for sending me the reply letter (dated 10th January) you had received from David Maclean, MP, Minister of State at the Home Office, in response to my letter to yourself of 16th November last, and which you had kindly passed on to the Minister.

I am bound to say that I find Mr. Maclean's letter deeply depressing. There are many points he makes which are fundamentally flawed and contentions which neither I nor the National Campaign for the Reform of the Obscene Publications Acts (NCROPA) can possibly accept. They need to be answered in some detail.

(1) The Minister's belief that a meeting between the NCROPA and either the Home Secretary or himself would not be "helpful" is, with respect, a direct slur on the integrity of the NCROPA, a long-established (1976), highly-respected, bona fide campaigning law reform organisation, run entirely voluntarily and for purely altruistic purposes by and for the millions (yes, millions!) of British citizens who deplore this country's propriety and injustice of this country's authoritarian, draconian censorship laws.

The only possible construction that can be placed on the Minister's reason for refusal is that such a meeting would not be "helpful" simply because the NCROPA's views are different from those of the Government (i.e. it would not be "helpful" to them). However the whole point of having such a meeting is precisely because of that in the hope that the Government would be persuaded to change its thinking. Governments and Government Ministers constantly make great store by their boasts of having consulted with all interested parties and considered all points of view before legislating on a particular issue. (Indeed, the previous Home Secretary, Kenneth Clarke, MP, wrote an article on this very subject in "The Guardian" on 5th February last year entitled "I listen, I consult, I reform etc"). We regard Mr. Maclean's refusal to meet us as an undemocratic, unwarranted snub.

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warranted snub.

(2) The Minister, whilst accepting that "it is possible to argue in principle against the current law on obscenity", states that these are not views which the Government or its predecessors have ~~accepted~~ accepted. That is, of course, not true. In 1948 the U.K. Government was an originating signatory to the United Nations Universal Declaration of Human Rights, Article 19 of which chronicles the fundamental human right to freedom of expression. In 1950 the U.K. Government was also an originating signatory to the European Convention on Human Rights, Article 10 of which again chronicles the fundamental human right to freedom of expression. Both of these great 'Charters of Liberty' enshrine this cherished right which the U.K. has solemnly agreed to honour and implement, yet most of the U.K.'s State censorship legislation (including the iniquitous Obscene Publications Acts) undoubtedly contravenes this provision. The issue is thus precisely one about "principle" - the "principle" set down in such important international declarations - and it is on this question of "principle" that it should be adjudged, not on Establishment prejudice, bigotry and (often) hypocrisy; political expediency; or individual given-offence.

(3) The Minister's belief that the Government is much more closely aligned with public and Parliamentary opinion on this subject than the NCROPA is, is also, we believe, very wide of the mark. My own experience in this field of sexually-explicit material is that Members of Parliament are generally either (a) quite out-of-touch with the honest views of the majority of their constituents regarding state censorship (including sexual censorship); or (b) only concerned with promoting their own individual preferences and/or prejudices, and thus only paying heed and giving support and publicity to those constituents (and organisations) who share those personal preferences; or (c) total hypocrites who privately and in principle unequivocally support our 'freedom of sexual expression' case, but for various reasons (largely selfish) refuse to stand up publicly, especially in Parliament, and say so. Some of the recent 'exposures' of M.P.s concerning matters-sexual certainly bear out the truth about this latter category.

(4) It is a palpable nonsense for the Minister to assert that the Government believes in a "free society" whilst supporting policies and pursuing action which blatantly deny such a society and the enjoyment of that most fundamental of human rights "freedom of expression", the kingpin of democracy.

Although I, personally, have always disliked the term "permissive society", because regrettably it gives the erroneous impression that society is permitting things which are 'naughty' and really ought not to be permitted, a "permissive society" apropos sexual matters and consenting adults is a very civilised society in which the 'nanny state' rightly does not interfere in the free moral choices of its citizens, a highly laudable philosophy and ~~one~~ significantly one forcefully expounded by a number of Government Ministers in recent weeks in the defence of alleged improprieties of some of their ~~colleagues~~ colleagues. Furthermore, the 'freedom of the individual/freedom of choice'

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thermore, the 'freedom of the individual/freedom of choice' banner under which the NCROPA campaigns, is the purported and much trumpeted basic philosophy of the Conservative Party. Mr. Maclean's and the Government's policies on State adult sexual censorship are thus in direct conflict with such a philosophy and can, in no way, be reconciled to it - not even by citing that fatuous and inappropriate hoary old chestnut of an argument (so beloved of Lord Hailsham) 'liberty not licence'. It is grossly disingenuous of the Minister to profess a belief in 'freedom' and thus, by implication, a belief in basic human rights and 'freedom of choice' whilst at the same time championing harshly repressive laws which prevent the enjoyment of those freedoms.

The NCROPA accepts, of course, that "In a free society there still have to be limits to protect the rights of others and the welfare of society as a whole", as the Minister states, but the rights of others would in no way be curtailed or infringed by the UK Government's permitting the full and proper implementation of these great 'freedom of expression' U.N. and E.U. Declarations, and neither would ~~the~~ welfare of (U.K.) society as a whole" be in any way impaired or threatened. Any suggestion to the contrary is absurd. In fact in the view of the NCROPA, it would have quite the reverse effect, i.e. a beneficial one.

That is, moreover, the view virtually all other European Union Member States have accepted and acted upon, and have, in consequence, removed virtually all State censorship laws of sexually explicit material for adults in their respective countries. This view now further extends and has been accepted by nearly all other European countries, including most of the former Communist Eastern Bloc countries, not to mention nearly all other countries of the wider so-called 'free Western World', including the U.S.A. How can the U.K. Government continue to try to justify its uniquely savage State censorship laws when all these other world-wide nations have rejected such out-moded, unjust and unnecessary repression? The answer must be that it cannot.

[5] Mr. Maclean cites "child pornography" as one area in which limits on ~~on freedom of publication need to be imposed~~ ~~on freedom of publication need to be imposed~~. The NCROPA has no quarrel with that (albeit a number of firm reservations about the form and terminology of such proscriptive measures) but is appalled by the Minister's facile linking of that syndrome with so-called "obscene" publications (i.e. sexually explicit publications) of and for consenting adults per se. It is just the kind of devious propagandist device so fondly and freely employed by the likes of Mrs. Mary Whitehouse and her NVALA to incite and inflame emotive public outcry against all and any material of which she does not approve and which she and her cronies have sought - successfully but dishonestly - to have proscribed for all. That successive Governments have paid so much heed to her unrepresentative minority tub-thumping, whilst virtually ignoring the views of organisations like ours, and that she has succeeded so completely, is a ~~disgraceful~~ reflection on those who are elected to represent ~~and~~ protect us and on a supposedly free, democratic society. That the present Government is currently seeking to extend and strengthen the U.K.'s censorship laws even more is, frankly, outrageous.

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(6) The Minister's analogy of a licensed and unlicensed shotgun owner with someone who may and someone who may not be "depraved and corrupted" by seeing allegedly "obscene" material is **ridiculously** inept. In the first place, in the U.K. "obscene" material is completely prohibited. Shotguns are not prohibited (many would wish that they were) and their sale and possession is permitted with the appropriate licence. So-called "obscene" material is not permitted to be sold in the U.K. under any circumstances - either with or **without** any licence. Its marketing is completely proscribed. But much more to the point, imprecise, unquantifiable, abstract terms like "obscene" and "indecent", and "deprave" and "corrupt" are capable only of entirely subjective interpretation. They ~~mean~~itably mean different things to different people - and, of course, also to judges, juries and the courts. A shotgun is a decidedly non-abstract article, entirely designed for the sole purpose of inflicting physical damage, and incontrovertibly a potentially harmful article - even lethal. Shotguns often get into the hands of 'irresponsible' people and are used to inflict ~~real~~ real harms in our society, often killing people. Why is the Government not concerning itself in its Criminal Justice and Public Order Bill with the "welfare of society's" potential shotgun victims by banning all shotguns, just as it bans all ~~obscene~~ "obscene" material, even though such material has never been proved to harm anyone? I can find no provision in the Bill for that eminently appropriate and worthy purpose!

(7) Mr. Maclean's elitist comments on 'protecting' those "who cannot safely be exposed to this (sexually-explicit) kind of material" graphically demonstrate the appallingly patronising 'double-standards' attitude towards the 'lower orders' the Government employs and which it has so glaringly ~~displayed~~ recently regarding Government Ministers caught with their pants down and holier-than-thou, sanctimonious official Government 'Back to Basics' policies - i.e. 'we can do as we like, but you, the peasants we govern, must do as we say'. Incidentally, just who are these people who cannot be safely exposed to sexually-explicit material and just what harm would **they** be subject to if they were so exposed? The Minister did not say. (Neither, by the by, did Nicholas Wintererton MP when I put the question to him in a protracted and persistent correspondence when he was trying to get the Madonna "**Sex**" book banned.)

(8) The traditional parliamentary practice of allowing a 'free vote' on such issues as 'obscenity' where the Government takes no collective stand and to which Mr. Maclean refers, is, in effect, a sham. In my observation, it is used when the Government wants to hide behind a 'tricky' issue of principle versus political expediency. The Government is further prone to utilising the supposedly Private Member's Bill for its own devious ends by often publicly announcing its neutrality on a particular issue whilst furtively and effectively giving its full back-up support to such a measure (viz. the 1983 Video Recordings Bill). An issue of such fundamental importance as 'freedom of expression' should not be left to the whims of lucky ballot-winning individual M.P.s. It is a crucial matter of basic principle and policy and thus the prime business of Government.

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(9) The line of acceptability and unacceptability to which the Minister refers is a nonsense because no two people will ever agree. No just and acceptable law on such a matter can therefore ever be formulated. The only solution is not to draw the line at all - except where it can be drawn without equivocation or ambiguity, what is where sexually explicit material of or for children under sixteen is concerned. That limitation is what most other Western-World countries have adopted and implemented, whilst allowing adults freely to choose for themselves.

(10) One of the Government's functions may be to "ensure that the law is as effective as possible and that there are no unnecessary obstacles to its enforcement". However, it is also the prime function of the Government of a "free society" to ensure that it introduces and implements laws which do not break its national and international agreements and commitments or deny those that it governs basic human rights and freedoms. The present U.K. Obscene Publications Acts (and related Acts) already clearly do just that and the present Criminal Justice and Public Order Bill - which is a Government measure - and which, as the Minister freely admits, increases and strengthens those Acts, can have no effect other than to strengthen and reinforce that breach and that denial.

(11) If the Minister is really prepared to offer help to any back-bench M.P. with suitable proposals for reform" as he claims, one would have thought he would at least have the courtesy to meet with the NCROPA (a national campaign) face-to-face and listen to our proposals. (We regularly send copies of our own 'Freedom of Expression' Bill to all 20 M.P.s drawn lucky in the Private Members' Bills ballot at the beginning of each new Parliamentary session.) We find the Minister's patronising suggestion that the NCROPA should "campaign to change public opinion" if it wishes to obtain a relaxation of the U.K.'s controls (prohibitions!) on allegedly "obscene" material, insulting, when (a) so many of us have been working so tirelessly and dedicatedly for our cause for the past 18 years; when (b) public opinion regarding the free availability of sexually explicit material is very much on our side; when, in any case, the core issue is one of basic human rights - whether they be majority or minority rights; and (c) when all the major rational and credible world investigations into the effects of such material have found no evidence whatsoever that it is harmful (including the Home Office's own distinguished two-year investigation the Committee on Obscenity and Film Censorship under the chairmanship of Professor Bernard Williams (1979) and its own Research Unit's Report "Pornography: impacts and influences" (1990)). There should be no more prevarication or delay and the Government should respond positively and favourably towards all this immediately.

(12) Mr. Maclean may be misguided enough to regard the volume of correspondence he receives in favour of strict state sexual censorship as a true barometer of general public opinion. We know, however, that those who wish to ban things and who wish to stop all others from pursuing activities of which they personally do not app-

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rove, the bigots and zealots who seem to be able so easily to flourish in this hypocritical country, are the ones who shout loudest and longest. Their actual numbers represent only a minority of the public at large and their views are, thus, quite unrepresentative of the majority. Mr. Maclean may believe "a reversal (as he sees it) of opinion" would be undesirable and he is entitled to his opinion. He is not, however, entitled to impose the ramifications of that opinion, or even the collective opinion of the Government, on others, on the people of this country as a whole, in direct defiance of this country's long-time acceptance of and commitment to the basic right of 'freedom of expression'.

As a matter of urgency and in the interests of that freedom, may I request that you ask him to reconsider his refusal for a meeting even at this late hour and at least whilst the Bill is still in its Committee stage?

Yours sincerely,

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

of the Obscene Publications Acts and the Department for the Arts and the Home Office, in connection with the Bill for the Reform of the Obscene Publications Acts, which you have been asked to consider by the Minister.

(1) The Minister's letter of 17th April 1960, which the Hon. Secretary of State for the Home Office would not be "helpful" in relation to the Bill, is a very good example of the kind of attitude which the Government has towards the public. It is a letter which is written for the purpose of and for the benefit of the public, and it is a letter which is written in a way which is designed to be "helpful" to the public. It is a letter which is written in a way which is designed to be "helpful" to the public, and it is a letter which is written in a way which is designed to be "helpful" to the public.

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Mr. Maclean's and Government's refusal to consider the Bill is a refusal which is designed to be "helpful" to the public, and it is a refusal which is designed to be "helpful" to the public, and it is a refusal which is designed to be "helpful" to the public. It is a refusal which is designed to be "helpful" to the public, and it is a refusal which is designed to be "helpful" to the public, and it is a refusal which is designed to be "helpful" to the public.