

Parliament

Sen



Mr Speaker

Speaker's Office House of Commons London SW1A 0AA

15th December 1982

Dear Miss Stephens

Would you please advise the Prime Minister that Mr Speaker will be making the enclosed statement this afternoon.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D J Lord'.

D J Lord

Miss C M Stephens
Personal Asst to Prime Minister
10 Downing Street
London SW1

Enc

DRAFT RULING

THE HOUSE WILL RECALL THE EXCHANGES WHICH TOOK PLACE YESTERDAY AFTERNOON ON A JUDGMENT AND SENTENCE WHICH HAD RECENTLY BEEN GIVEN IN A CASE OF RAPE. ON READING THESE EXCHANGES, I AM DRAWN TO THE CONCLUSION THAT I NEEDLESSLY TOOK UPON MYSELF THE BLAME FOR AN IRREGULARITY WHICH DID NOT IN FACT OCCUR.

THERE IS A FIRM DISTINCTION TO BE DRAWN BETWEEN CRITICISM OF THE CHARACTER AND CONDUCT OF A JUDGE, WHICH IS OUT OF ORDER EXCEPT ON A SUBSTANTIVE MOTION, AND OF THE SUBSTANCE OF ONE OF HIS JUDGMENTS, WHICH IS QUITE PERMISSIBLE. I DREW THIS DISTINCTION VERY CLEARLY ON 19TH JULY 1977 (HANSARD, C. 1381), IN A RULING FROM WHICH I WOULD VENTURE TO QUOTE:

"THE RULE IS NOT SO RESTRICTIVE AS SOME HON. MEMBERS MAY THINK. IT IS NOT NECESSARY TO HAVE A SUBSTANTIVE MOTION BEFORE THE HOUSE TO ALLOW MEMBERS TO ARGUE THAT A JUDGE HAS MADE A MISTAKE, THAT HE WAS WRONG, AND THE REASONS FOR THOSE CONTENTIONS CAN BE GIVEN WITHIN CERTAIN LIMITS, PROVIDED THAT MODERATE LANGUAGE IS USED.

ON THE OTHER HAND:

REFLECTIONS ON THE JUDGE'S CHARACTER OR MOTIVES CANNOT BE MADE EXCEPT ON A MOTION. NO CHARGE OF A PERSONAL NATURE CAN BE RAISED EXCEPT ON A MOTION. ANY SUGGESTION THAT A JUDGE SHOULD BE DISMISSED CAN BE MADE ONLY ON A MOTION".

BOTH THE HON. MEMBER FOR CHICHESTER'S QUESTION YESTERDAY AND THE PRIME MINISTER'S REPLY, FELL QUITE CLEARLY WITHIN THE TERMS OF THE EARLIER PART OF THE RULING.

I HAVE FELT BOUND TO MAKE THIS STATEMENT NOW IN ORDER TO ENSURE THAT NOTHING WHICH HAPPENED YESTERDAY WILL TEND TO INHIBIT HON. MEMBERS FROM EXERCISING A RIGHT OF CRITICISM WHICH THEY HAVE ALWAYS ENJOYED, AND WHICH IT IS IN THE INTERESTS OF THE HOUSE THAT THEY SHOULD ALWAYS HAVE FREEDOM TO ENJOY.