

Amazing error by *The Times*

As is widely known, British sex law was updated in 2003 by the new Sexual Offences Act. While the Bill for that was going through Parliament I was active in proposing amendments. I particularly opposed, without success, the Government's insistence that normal sexual interchanges between teenagers who were both under the age of consent (sixteen) should not be criminalized. For example I said-

'It is surely quite wrong that the police and Crown Prosecution Service should be involved at all in such cases. The fact that the CPS might eventually decide that it is not in the public interest to proceed with a prosecution even though technically a crime has been committed is no answer. The existence of this residual CPS discretion should never be used as an excuse for labelling conduct as criminal when truly it is not. The right of any citizen to bring a private prosecution also has to be borne in mind here. This right might be exercised for example by a spiteful neighbour. Nor in such cases is it 'appropriate to pursue the matter through child protection . . . processes'. This still brands the children's conduct as criminal, calling for intervention by state services. Such intervention can do immense harm to the children, and is uncalled for.'

[See my 'Briefing on Sexual Offences Act 2003' at

<http://www.francisbennion.com/pages/02/05/03/02/03/06chapter.htm>]

In its T2 supplement for 16 August 2005 *The Times* has fallen into the trap set by the 2003 Act. On the front cover there is a photograph of a boy with his head in his hands and the caption-

'A knock at the door. On the step, two detectives. They said to my 13-year-old son: "We are arresting you for rape"'

Inside, the 'Cover story' has shriek headlines: **OUR SON, A MALICIOUS GIRL AND RAPE THAT NEVER WAS.** The headline is wrong. In law (though not in common sense) there was a rape, and their son committed it.

The report says: 'But this supposed rape victim was a 15-year-old girl who had given an ill-advised blow job to a 13-year-old boy . . .' It is the 2003 Act that is ill-advised. It says this was rape because the girl was too young to give effective consent. In allowing his penis to be enclosed by her mouth the boy committed rape because he intentionally penetrated the mouth of another person with his penis when she did not consent (because her actual consent was ineffective). Section 1 says so.

Admittedly section 1 says it is only rape if the defendant does not reasonably believe that the 'victim' consents, but that does not save the boy. He may have believed that the girl consented, but his belief was not reasonable because he is taken to have known she was under age so that her consent was ineffective. This is absurd of course, but under our system ignorance of the law is no excuse.

For two pages *The Times* mistakenly rampages on about 'the rape that never was', thus gravely misleading its readers.. Obviously it should have got a lawyer to vet this sensational story about the criminal law. Oddly enough the T2 supplement contained the weekly *Law* section, but this story was not in it.