

SUBMISSION TO THE COMMITTEE ON OBSCENITY
AND FILM CENSORSHIP

We are a group of Parliamentarians from both Houses and all Parties who have come together to give evidence to the Williams Committee in the belief that the large majority of our countrymen want a balance of the law which, whilst preserving the maximum freedom of expression, will also protect our family and social lives from pollution by media violence and pornography.

There is nothing new about violence and obscenity in literature, art, and drama, and in the past legislatures could afford to be fairly relaxed about it in the belief that its scale was so small that it would not touch the great majority of people. Today, however, the perspective has completely changed; in a mass media age the production and publication of violent and pornographic material has now become big business, so that its distribution and impact on our national lives during the past decade or so has become substantial. Pornography is now displayed on book-stalls and hoardings all over the country. There are theatres and cinemas which now specialise in ultra-violent and pornographic presentations. No doubt it is in the interest of the producers to maintain this growth by developing new outlets and even more perverted appetites where possible. This may be the explanation for the recent appearance of a new form of pornography - child pornography. This market is already well established in the U.S.A., where the Los Angeles police department estimate 30,000 children locally to be involved. This dangerous and offensive material is now on sale here in increasing quantities.

We believe that the publication and display of pornographic material has a corrupting effect on human beings, especially on the young, and we believe that the financial and marketing strength of the producers of this material will, if not restrained, ensure that it permeates into the homes and minds of our people. Its effect in presenting sex (whether violent or consensual, natural or unnatural) as a public spectacle, is to endanger modesty, restraint and natural affectionate human relations, and to debauch the minds of the young. A similar and even more clearly validated case may be made against mass media presentations of realistic and extreme violence.

The 1959 Act, the long title of which declared the intention of Parliament to "strengthen the law concerning pornography", has proved in practice to be uncertain and ineffective, with the result that on the one hand the Authorities and the police hesitate to bring prosecutions, and on the other, when prosecution is brought, the courts often fail to convict, even in the most flagrant cases. It is not clear whether gross cruelty and torture in a publication could count as obscenity. In a word, the Act by which Parliament intended to improve the law in this important respect has achieved exactly the reverse and has weakened it.

It is against this background that we ask for the law to be made effective to protect our national life against this insidious and dangerous pollution

THE RESEARCH BACKGROUND - EFFECTS

Leaving aside any subjective judgments which might be made about the offensiveness of pornography, one vital component in the case against its present proliferation is the evidence now available which suggests some measurable and objective relationship of harmful "cause and effect". A significant relationship between availability of pornography and the level of sex

crimes in a community was postulated by Kutchinsky in his studies in Denmark (1971). For a time his work was quoted as making a case for removing all restrictions from pornographic publications, on the grounds that if obscene publications circulate freely sex crimes will diminish, and the demand for such publications will also tend to abate.

More recently however, Kutchinsky's sampling and methodology have been shown to be defective. Other research has produced strong indications pointing in the opposite direction, e.g. that of Dr. John Court of Flinders University, South Australia. It is perhaps not surprising that sexually explicit books and films should be expected to influence behaviour. That visual material can have a persuasive effect on attitudes and behaviour is the unwritten assumption in all advertising. Moreover, in one and the same case on a number of occasions the defenders of pornography in the courts have advocated the free availability of obscene material to all members of the public as suitable leisure reading since it can have no effect upon their behaviour, yet later in the course of the same proceedings they have produced "expert witnesses" who testify to very specific (and in their view beneficial) effects upon their patients in the course of "therapy". They thereby concede that pornography does affect conduct. The occurrence of such material in the wider, natural environment is at least as likely to have an influence on behaviour.

There is a parallel between the effect of pornography and that of violence. It should be emphasised that research work on media violence has been pioneered in America, where scores of individual research reports have been carried out by university departments quite independently. Though the principal interest there was on violence on television, the same principles clearly apply to cinema violence, and other publications featuring visual violence. We note the reverent academic agnosticism of Mr. Stephen Brody, the Home Office investigator into published research in Screen Violence and Film Censorship (HMSO, 1977), and would comment that when common sense and educational practice are taken into account, the balance of probability swings away from the predictable tentative neutrality of Mr. Brody ("social research has not been able unambiguously to offer any firm assurance" p.125). In a book evaluating more than fifty studies covering more than 10,000 normal children and adolescents, the writers concluded "the demonstrated teaching and instigating effects of aggressive television fare upon youth are of sufficient importance to warrant immediate remedial action". (The Early Window, Liebert, Neale and Davidson, Pergamon 1973.) The recent research in this country by Dr William Belson has come to identical conclusions. It would be foolish and irresponsible to ignore these research results when considering cinema and theatre violence, even though technically speaking television has for some reason been excluded from the terms of reference of the Williams Committee.

It is against this background that the present state of the law in Britain should be considered.

PROPOSED CHANGES

We suggest the following specific changes in the law:

1. Indecent display

There is clearly a need to consolidate legislation which would cover sexual behaviour and the exposure or display of the naked human body, either in person or in advertisements. A Home Office working party has already produced useful suggestions in this field, though we would insist that male and female exposure should be treated in the same way as a matter of equity. The Cinematograph and Indecent Displays Bill, which had an unopposed 2nd reading in the Commons, contained useful formulations of legislation to control advertisements, hoardings and other public displays and we would suggest that these

proposals should be followed broadly by the Committee.

2. The 1959 Act and the Theatres Act 1968

The 1959 Obscene Publications Act has "misfired", to use the words of Lord Denning. We suggest that the following aspects of this Act (and of the Theatres Act 1968 and the Criminal Law Act 1977) should be considered by the Committee.

(a) The words "taken as a whole" have caused a certain amount of confusion, and we suggest that they should be deleted. The impact of obscenity is such that in whatever context it is presented, its effect is dangerous and detrimental to human health and stability.

(b) We believe that the "public good" defence has similarly led to grave difficulties; indeed it is by the abuse of this provision that the 1959 Act has largely been rendered ineffective. We suggest that it should be deleted from the Act (and from the Theatres Act), and not appear in any new Act.

(c) The right of private prosecution has been denied in the case of theatre obscenity, and now in the matter of cinema obscenity under the Criminal Law Act 1977. Since the passing of the Theatres Act 1968 the Attorney General has refused to permit the law to be tested, even by a private prosecution, in regard to any London theatrical performance, despite the manifest obscenities of Oh! Calcutta! etc. etc. Yet in 1959 a speech from the then Attorney General in the House of Commons caused Mr. Roy Jenkins to withdraw a similar provision from his Obscene Publications Bill. In our view there can be no justification for restricting the democratic right of an individual to bring any publication or stage play before the courts if he believes that the law has been broken. Legal costs will deter frivolous prosecutions.

(d) We believe that special attention should be paid to protect children and young people from exploitation by photographers and camera men and theatrical producers. We would hope that the Committee will devise a draft statute which would make it a criminal offence to persuade, employ or offer payment to any child or juvenile to be photographed or appear on the stage or before cameras unclothed, or in order to simulate any sex acts or engage in sexual behaviour.

(e) We would ask the Committee to pay especial attention to the penalties at present available to the courts. In view of the fact that theatre, cinema and magazine pornography is now an inter-continental business which has its millionaire barons and companies, we believe that this situation should be reflected in the penalties available.

3. Definition of 'obscene'

The definition of obscenity is the most difficult matter of all. Some would argue that it should be left undefined, so that judges would simply refer juries to the dictionary meaning, and then invite them to consider the immediate impact of the allegedly obscene material upon their minds and consciences. This is at present impossible on account of the "test" given in s.1 of the 1959 Act. We ourselves incline towards the view that

though pornography, or a realistically violent publication, does not act like a single dose of arsenic, which is bound to have an immediate and permanent effect upon any consumer, yet the continuing use of such material, becoming an addiction, will undoubtedly corrupt the mind and emotions of the recipient, whether by brutalisation, or by the implanting of a perverse obsession, or even both. In our view it is the regular "enjoyment" of such material which has a corrupting effect, and can finally issue in acts which are detrimental to society. It is perhaps necessary to attempt to characterise our understanding of pornography at this point. We can do no better than the Kronhausens in "The Encyclopedia of Sexual Behaviour":

"pornography is characterized by an absence of the reality constraints that mark erotically realistic works of fiction One might say that the primary aim is to create a state of increasing sexual arousal in the reader by portraying sexual relations in which all standards are violated and in which the only psychological feelings involved are lust and a mindless sexual joy".

To be unmoved by human suffering, or to regard women as dehumanised sex objects is a corrupt and depraved state of mind. Such persons are citizens who are a danger to society. Their addiction promotes and encourages unlawful actions such as rape, sexual assault and various types of sexual perversion. This represents not only a danger to young people, but marriage also is increasingly at risk.

We therefore recommend that the Committee should not simply consider the patent offensiveness or shocking quality of obscene and ultra-violent material. We would recommend rather that they formulate some test or definition which would have the effect for example, of proscribing - All publications, the regular perusal of which would blunt natural sensitivity to the claims of essential privacy, to the pattern of marriage and family life accepted by our society or to any treatment of one human being by another, or any use of the human body, or to any language which is disgusting, immoral or debased, thereby corrupting and depraving human nature as a likely consequence. Or another approach might be to ask a jury to consider in respect of the article subject to prosecution whether it was of such a character that, were such articles regularly and generally available, and were they to fall into the hands of citizens of both sexes and of all ages, most people would be likely to consider that they would be harmful to individuals and to society.

These ideas may well prove difficult to translate into drafts for statutes but they represent broadly the objectives we should wish to see achieved. There is little doubt that the public are expecting a new law which is stronger and clearer, and which draws attention to the actual harm done by addiction to pornography or to violent publications. However clumsy our proposals may seem at first sight, they draw attention to the objective evil which follows mass publication and mass consumption of obscene publications and performances. We do not believe that the contrary view - i.e. that there are no acts, no pictures and no words which have a tendency to damage the moral integrity of the individual or the well-being of society - is accepted by any persons outside a tiny handful of people concerned with the production of such material for gain. Educational practice, sound common sense and much scientific research are all agreed that some control is necessary in the interests of public health and well-being.

We look to the Committee to repair the ruins of the law in this important field.

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December 1977