

"SIGHT + SOUND" ARTICLE
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VIDEO CENSORS

"It is not only a Bill, my Lords, of a very extraordinary nature, but it has been brought in at a most extraordinary season, and pushed with most extraordinary despatch".

"Such a law ought to be maturely considered, and every clause, every sentence, nay, every word of it, well weighed and examined, lest under some of those methods presumed or pretended to be necessary for restraining licentiousness, a power should lie concealed, which might be afterwards made use of for giving a dangerous wound to liberty..."

- the Earl of Chesterfield on the Playhouse Bill 1737

Two decades ago, John Trevelyan, then Secretary of the British Board of Film Censors, put on a programme at the National Film Theatre of clips from films which were considered so violent as to be beyond the pale. Images remain in the mind of a Japanese gangster being taken for a ride and beaten up; of a man having his leg sawn off - through the fabric of his trousers, so one could not see too much. The show made quite an impression - but we were all very innocent then. When ^{James} ~~John~~ Ferman put on a similar exhibition two years ago to a conference of film censors, many of those sophisticated and case-hardened men and women were shocked at the nature of the violence he demonstrated to them, for it had now become heavily sexualised - not only rape but mixed in with it slashings and stabbings and burnings and even more exquisitely vicious and inventive acts. More subversively, many of these, particularly the hard-core pornographic films, contained a subliminal message that really the women victims liked it. The extracts shown were mostly from badly acted and directed, if sometimes well photographed, exploitation movies like House on the Edge of the Park with the tell-tale mindless passivity of the victims which is typical of hard-core pornography - together with a few sequences of sexual violence cut out from properly produced certificated films. Both these shows were jeux d'esprit by highly sophisticated British film censors to show the nature of the unsuspected material they were protecting us from.

One and a half years later things took a more serious turn, when a powerful lobbying organisation led by Mrs. Mary Whitehouse, that Anthony Comstock of English life today, combined with the police to produce and show a 20-minute tape of similar clips. But this time the purpose was not to inform. It was to manipulate politicians. Three times that tape has thus been shown. Once in the House of Commons on the eve of the 2nd reading of the Video Recordings Bill;

once in the House of Lords only minutes before they debated the same Bill; and once in the European Parliament to soften up its legislators in protection against a flanking movement. It was cleverly compiled, with the adept inclusion of a Mondo Cane-type sequence showing a live monkey having its brains eaten in an oriental restaurant. That non-sexual non-sado-masochist sequence was mentioned time and again in the ensuing debates and, as one who closed his eyes during the calf-slaughtering frames of Le Sang des Bêtes many years ago, I can well understand its impact. But it was irrelevant to the issue.

The issue is video. Four years ago video cassettes were a high technology dream which nobody was taking really seriously. Now 30% of the UK population aged seven and over are regular video watchers. Much of this is time-shifting - the recording of TV programmes so as to watch them at a time which is more convenient. However, the market in pre-recorded videos (mostly cinema films but with a growing number of musical, special interest and educational items) has expanded phenomenally. The acquisition of video distribution rights is big business (the video rights in Star Wars were sold for some \$15 million) and it has become a major and competing form of delivery of film performances, competing with old-fashioned cinemas which had already lost their morale under the impact of television.

The great virtue of the video cassette ~~book~~ is the freedom it gives to the consumer. Film exhibition in Britain has always been strongly cartellised and never more so than today. If there is still a local cinema, it gives very little choice and hardly ever a reprise. If a film is missed, the only way to catch it up for most people is to wait until it appears on television. Video shops, however, have a large choice of titles on their shelves and at highly competitive rental prices. If an even greater choice is wanted, there are mail order firms like Blackhawk in the United States and the BFI's own Video Club, together with the possibility to buy cassettes abroad in their countries of origin. Films can become more like recorded music or books, with each individual able to acquire or borrow just those titles he wants and when he wants. Cassettes give us freedom from the circuit bookers and distribution oligopolies, greater individual control and hence are more democratic.

"Freedom?", said Geoffrey Finsberg MP last year on television. "What we have had in recent years is licence!" Those who fear freedom will always have it thus. And the appearance on the video market of a small number of explicitly violent films has raised a banshee wail which the more straight sex films, hard core or not, were quite unable to raise. What happened?

The chairman of the video distributors trade association, the British Videogram Association, became early aware of the mischief that could be caused by certain violent films which, through lurid advertising, were already coming to public notice - three in particular which have continually been cited in

argument: Driller Killer, SS Experiment Camp and I Spit on Your Grave. The term "video nasties" gradually came to be applied to them, to describe their exceptionally unpleasant nature. And yet they were only a short step away from the legitimate cinema. The Texas Chain Saw Massacre had become a cult movie on American campuses, spawning a yet unended series of similar violent horror movies, one of which, The Evil Dead, became no.1 on the list of UK video rentals in 1983. Satanism, violent revenge, psychotic killers - all have a powerful history in mainstream films (not to mention Jacobean tragedy and 19th century grand guignol). Directors such as Pasolini, Oshima, Hitchcock have had a fascination with that shadowed side of the human psyche; and others with less artistic justification have not felt inhibited from pushing portrayal of violence to the limit of the publicly acceptable. We are going through a period of immense social and historical change which people over the age of 60 cannot understand, and such periods are always reflected in entertainment and the arts. The "nasties", or the taste for them, may be an extreme example of that. The BVA defined them as including disembowelling, castration, cannibalism and humiliation.

In early 1982 the BVA asked the British Board of Film Censors to set up a working party to look into the question of video nasties and recommend a classification system so as to prevent the problem getting any worse. The desire of the BVA was for a voluntary code, to be enforced by the industry. There was indeed some doubt whether the distributors and even more the retailers would accept even that; and ~~John~~ James Ferman's wish to impose firm obligations on the traders had to be balanced by the need to obtain a consensus.

At that time the Home Office was acting very cannily. Some sort of statutory framework might be best but the necessary legislation would take time to devise. In October 1982 the Government was keeping the situation under review in the light especially of the discussions in the working party about a certification scheme. "Should such a scheme be introduced, we would wish to assess its effect before deciding whether any statutory controls were required", said Patrick Mayhew MP for the Home Office. On the other hand, a trade-enforced scheme would run the risk of the wrath of the Office of Fair Trading since it would enforce conformity on the trade and place distributors who were not BVA members at a competitive disadvantage. The final solution was a voluntary code of practice.

While the working party was sitting, the BBFC was rejigging its own classification scheme for cinemas. The old 'U', 'A' and 'X' pattern was thought to have become less helpful in present-day conditions and the letters themselves somewhat confusing. Much of the discussion at the conference of film censors the previous year had been devoted to classification categories, and particularly to the various age breaks. However the future went, and whether mandatory film

ensorship remained or, following the trend throughout Western Europe from north to south, was abolished, classification would be needed if only as a method of consumer and parental guidance on a voluntary trade basis. A new scheme would, therefore, need to be appropriate for the many different forms of presentation of audiovisual works which might emerge in the years to come. The Board therefore produced a new "multi-media category system for screen entertainment", based on the most advanced thinking and designed to permit flexible and subtle application.

Appropriately for an age in which packaging and labelling were important and for a type of entertainment which would be bought and hired in retail shops, the new categories were designed, like road signs, to give immediate visual information. Films that anyone may see - 'U' (universal) and 'PG' (parental guidance, borrowed from the United States: "Some scenes may be unsuitable for young children") - are given triangles. Those with age bars, at 15 and 18 years of age, are given red circles. A new special category, 'restricted 18' (for restricted distribution only, through segregated premises to which no-one under the age of 18 is admitted), was given a large mauve rectangle.

This new classification scheme was brought into operation for cinemas (after the licensing authorities had approved it) and was adopted by the working party as part of the code which it recommended, together with a proposal that all packaging for videograms not classified 'U' should include a brief indication of the nature of the contents and the reason for the certificate given, this to be drafted by the distributor. A Video Standards Council would be constituted on the lines of the General Medical Council, the Press Council and the Advertising Standards Authority and it would be responsible for administering the scheme. The actual classification would be carried out by the BBFC under contract. In addition, and in view of the public importance of film advertising, a Publicity and Packaging Committee would also be formed to censor all copy and pictorial material intended for use in conjunction with videograms in the 15 and 18 categories.

The report was adopted in January 1983. Approval of the BVA Council, the member distributors and the retailers was obtained, and the new "BVA Classification Code" was launched on 13 April 1983. The Home Office expressed satisfaction; and it might well have been generally accepted as a workable system if a general election had not been called the following month. We shall have to wait 30 years to discover whether this was 1916 in reverse, whether the Home Office's sudden change of attitude was the result of ministerial changes or whether it followed from the greater confidence of a Government which was returned with an overwhelmingly large majority and so was the more ready to listen sympathetically to the secret urgings of congenial pressure groups. Whatever the cause, support for the BVA scheme was killed stone dead and

official energies were switched to devising a compulsory state censorship system.

The means came very swiftly to hand. Top of the ballot for private members' Bills in the new Parliament came a junior Home Office MP, Mr. Graham Bright, who agreed to resign his post as Parliamentary Private Secretary to a Home Office Minister in order to introduce and shepherd through a private members' Bill to censor video cassettes. "The law as it stands", he said, "cannot operate as effectively as we would like. Some of the worst tapes have been caught by the Obscene Publications Act 1959, but there are a large number whose content falls short of the strict test of obscenity in that Act; and the present law, moreover, provides no guidance to a retailer on what is suitable for different age groups. My conclusion, therefore, is that the law should be strengthened. Some form of pre-censorship is needed, coupled with clear guidelines as to the suitability of particular cassettes for particular age groups". The Bill, at that stage only a name without any contents, was given formal first reading on 20th July and then disappeared into the womb of the Home Office for a 3½ month gestation period.

When it emerged at the beginning of November, the Bill was absolute. No video work might be supplied unless it had first been censored (subject to certain exceptions). A few days later, on the eve of the 2nd reading debate, the Campaign Against Censorship held a protest meeting in the House; but the Bill was debated the following day without a single dissentient voice. During its committee stage, which followed swiftly and was completed by mid-February, all parties vied in supporting it, not least the Labour Party, and only Robert MacLennan of the SDP engaged in any probing into the implications of such a revolutionary measure. Only two amendments were allowed in committee, although several more were made on report. In the Lords the refrain was: "Don't rock the boat"; anything which might delay the Bill, whether the appointment of a select committee to investigate the issues or an amendment which would require further consideration in the Commons, was steadfastly opposed. At all costs the Bill ^{had to} ~~must~~ get back to the Commons intact and ready for royal assent this summer - before the trade, the public and all who care for our liberties had recovered from the trance into which the magic words "video nasty" and "children" had thrown them, woken to the enormity of the attack and begun to resist.

The last time that a British Parliament passed an Act imposing censorship was in 1737, when theatre censorship was instituted - and

that took some 220 years to reverse. In all that time and more, for nearly 300 years, we have enjoyed freedom to sell and hire information, art and entertainment ^{of all kinds} without prior restraint. But no longer.

The Bill covers any series of visual images produced electronically through a disc or magnetic tape and shown as a moving picture. Originally interactive devices were excluded, but when someone in committee said that video games were about in which rape and other nasty activities were portrayed the exclusion was promptly excluded. Whether in fact such second thoughts will succeed may be doubted, since video games are driven by ROMs and not by disc or tape. The extent to which computer graphics in general are covered is uncertain, especially as most software packages are marketed on tape or disc. Laser disc encyclopaedias are certainly covered. So are video journals, in spite of a valiant but unsuccessful effort by Lord Houghton to exclude works "reporting and commenting upon current affairs". So press censorship now has a toe in the door.

The supply of a video work either for reward or in the course of a ~~xxx~~ business is only lawful if the work has been censored and given a classification certificate. The Government is empowered to appoint any body it thinks fit to carry out the censoring, and it has made clear its intention to entrust the task to the British Board of Film Censors. This so incensed many MPs on the standing committee, who thought that the Board has been shockingly lenient in recent years, that six of the nine sittings of the committee were devoted to that single issue.

The classification categories as outlined in the Bill allow the new BBFC certificates to be used, with the slight alteration that 'Restricted 18' videos may only be supplied from licensed sex shops (or by mail order, although that is not expressly mentioned). It is intended that the category symbols should be fixed or printed on the packaging; and supplying an unmarked video would be an offence. Supplying an ~~unclassified~~ unclassified video is made punishable by as much as a £20,000 fine by magistrates (there is no jury trial), a massive power for lay magistrates who are not normally trusted to impose fines of more than £2,000.

The scheme of the Bill is very simple - as its sponsors kept saying. If the video is a "video work" it may only be supplied if it lawfully bears a censor's mark. If it does not, the person supplying it can be prosecuted (and heavily fined) merely for that offence. It is not necessary to prove anything about the film itself, but only whether it has been censored and what category it has been given.

There are, however, exceptions. They were intended to strike a balance and they apply both to the video works themselves ("an exempted work") and to the circumstances in which they are supplied ("an exempted supply"). Free loan or gift of a film between friends is an exempted supply, but not if it is paid for. Supply for exhibition purposes (the Bill leaves intact the existing rules on censorship for exhibition), e.g. in cinemas or film societies or on television (but not in the home) is exempt; so is most supply for professional purposes between the various sections of the ~~xxxx~~ film industry and film trade including laboratories and probably including the use of videos for trade shows and other marketing purposes: ~~this~~ the provisions on this are not particularly clear and may cause trouble. ~~xxxxxx~~ Amateur films are in general caught by the censorship requirements, the only home movies to be exempt being "actuality" sequences which "provide a record of an event or occasion for those who took part in the event or occasion or are connected with those who did so". Videos of weddings are therefore exempt, but not if they are sold to strangers e.g. if the couple are famous. Le Déjeuner de Bébé would be all right if presented to M. Lumière for his family collection, but not if it is sold to the public as an example of the marvels of modern science.

Works are exempted if, taken as a whole, they are designed to inform, educate or instruct or are concerned with sport, religion or music or are video games; but if a video, to any significant extent, "depicts human sexual activity" or acts of force associated with it (e.g. sexual sadism) or mutilation or torture (the crucifixion?) or human genital organs or man urinary or excretory functions, then-even religious films or educational or informational films cease to be exempt and must be submitted for censorship. Medical films were added to the exempt category at a later stage. The precise borderline of some of these categories will keep the lawyers busy for many a year, particularly as heavy fines may greet a miscalculation. Will a newsreel or documentary of the Vietnam war be exempt? or The Day After? or films made by women's groups to combat rape? Is 42nd Street or Saturday Night Fever "concerned with music", or does that only apply to video versions of music on gramophone records?

The exemptions are important because of the cost, delay and procedural bother the censorship imposes as well as because exempted films will escape being classified. Film equivalents of The Little Red Schoolbook can presumably expect little mercy. For mainstream films, however, there

will be little change: where films are cut for cinema release cassettes of the uncut version will presumably no longer be available (except on the black market). One more safety valve will have been screwed down.

It is ^unonconventional distribution which will ~~s~~ suffer the most. Will the BFI Video Club be able to afford the censorship fees (expected to be about £400 for a feature film) for small quantities of Dr. Mabuse or Night of the Hunter? Certainly it will be uneconomic to import single copies of films which have never been submitted in cassette (or perhaps even otherwise) to the British censor. That may bring the Bill into conflict with the Common Market, since the censorship paraphernalia will constitute a non-tariff barrier to imports from other member States of the EEC. Likewise, the Bill is in breach of article 10 of the European Convention of Human Rights since a comprehensive pre-censorship is clearly disproportionate to the alleged aim of protecting children from a couple of dozen video nasties and hence is not "necessary in a democratic society". The impact of the Bill on ethnic minorities in Britain does not seem to have been considered, in spite of the fact that Britain is one of the largest markets for Indian films outside India itself.

More serious politically is the effect of the Bill on cassettes made by and circulating among members of minority groups or made privately for political or social propoganda. It will have a destructive effect on what used to be called avant-garde experimental films and on personal statements in film form which at last were becoming financially feasible since video cameras do not need expensive film stock. One's only hope is that just as the universal spread of home computers makes nonsense of the registration requirements of the Data Privacy Bill, so the spread of home video-making will make some at least of the censorship requirements impossible to enforce.

But there is one particularly sinister aspect of the Bill. The BBFC will be transformed from a relatively power-less body relying for its effect on the moral force and acceptability of its decisions to a balance of local authorities, Government, trade and public, into a power-ful body deriving its force from its appointment by the Government. That will inevitably rub off from video censorship to its more traditional film censorship rôle. Already the Director of Public Prosecutions has communicated to the Board its "guidelines" of acceptability for films (but stubbornly refuses to make them public); the Board will certainly be applying in the future standards which are at the very least compatible with those police rules. The report ~~of~~ on Video Violence and Children

compiled by ~~Mr~~ Clifford Hill et al. for the Parliamentary Group Video Enquiry (March 1984) used quite uncritically as its working list of video nasties a collection of titles culled from conversations with the police and representing videos which were being prosecuted ~~and~~ or being considered by the DPP for prosecution as well as those the courts (mostly lay magistrates) had already found to be obscene. During the debate on the Bill in the Lords on 28 April, Lord Elton for the Home Office said that he would have talks about the possibility of the BBC and IBA (whose programmes although already broadcast to the home will still have to be censored again under the Bill if they are to be sold on cassette) talking to the BBFC to see if common standards and criteria could be applied to broadcasts as well as to video material. Police views are thus, in one gargantuan rush, coming to dominate the pre-censorship of videos, of films and possibly also of television programmes as well. The Bill provides no protection against that; indeed it encourages it by giving complete carte blanche~~s~~ to the Home Secretary as regards all detailed application of this new and dangerous censorship system.

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