

HON DIRECTOR

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NO/DAW/DP

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Obscene Publications Bill 1987

I am most grateful to you for getting a copy of Gerald Howarth's Bill off to me so promptly. You will nevertheless appreciate that, because of the desperately short time we have had to absorb and consider the implications of its provisions, not to mention the added hazards of the present weather conditions, the enclosed observations and comments on it are extremely superficial. We hope, however, that they will be useful should the situation arise in which Mr. Howarth's Bill surfaces unexpectedly prematurely.

Our overall re-action to the Bill is one of abject horror. We believe its implications to be even more alarming than those of the unlamentedly defunct Churchill Bill last year. Furthermore it is a travesty of sensible, clear legal drafting, many of its provisions being cloaked in some of the most obscure and convoluted language which, rather than clarify and simplify the present Obscene Publications Acts, will merely add to the confusion, provide lawyers with an even bigger field-day and the Courts with added chaos and vastly increased workloads. Inshort, it is an irrelevant, out-moded and outrageous piece of nonsense.

As you well know, the NCROPA's long-held and still unswerving view is that there is only one direction in which the Obscene Publications Acts should be reformed and that is in the direction of liberalisation. What is required is not a Bill, like this one, which not only makes our hideously draconian censorship laws even stronger and more repressive than they already are (we are now virtually the most stringently censored country of the so-called 'free' Western World) and attempts to do so in such a dangerously authoritarian way, but a Freedom of Expression Bill, like the one we drafted and sent to all of the top twenty M.P.s in the Private Member's Bill's Ballot, and which would rightly allow consenting adults the right to choose for themselves what they see, read and hear. (I am enclosing a copy of that draft Bill for your information).

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Here are some, regrettably, necessarily hurried observations on the Bill. Obviously we will expand on these later, although we hope that Mr. Howarth's Bill will make no progress and that there will be no need to pursue it further.

- (I) The Bill's preamble is inaccurate and dishonest:
- inaccurate because it is not only a Bill "to extend the scope of operation" of the Obscene Publications Act 1959 and the Cable and Broadcasting Act 1984, but one to change the legal definition of 'obscenity'.
 - It is dishonest because it not only leaves this out, but also because it leaves out its intention to extend its scope of operation to bring in television and broadcasting (i.e. the BBC and the IBA) and not simply to Cable television.
- (II) The Substitution or addition of the new test for 'obscenity' to the publication of any article that a "reasonable person" would regard as "grossly offensive" (SECTION 1, second sub-section (a) - line 16, page 1) is nonsensical, impracticable and unworkable, but, most important of all, it is inherently dangerous.
- What is a "reasonable person"? Most people believe themselves to be "reasonable" persons. How on earth is a Court and/or a jury to decide?
 - and what is "grossly offensive"? What one person finds so, another does not. It is a totally subjective decision.
 - such appallingly imprecise, un-legal definitions or concepts have no place at all in any legislative measure. Moreover their inclusion in Statute Law could impose the 'tyranny of the majority' where matters of individual freedom of choice and the freedom of expression are concerned.
 - The "deprave and corrupt" test of the 1959 Obscene Publications Act may be a nonsense, but this proposed new substitution is an even bigger nonsense - but a much more sinister nonsense in its implications.
- (III) The Bill re-introduces a 'laundry-list' of prohibitions (which ran into such well-deserved trouble in the Churchill Bill, even though the list here is a somewhat shorter affair). As with the Churchill Bill, one can already foresee the most frightening implications for all kinds of publications (now including television and radio with this Bill, of course). So many things which are quite innocuous and highly desirable would be caught by the Bill and so many people would become potential criminals by falling foul of its provisions that it would prove absolutely intolerable.

Furthermore it would appear that Mr. Howarth's intention is to outlaw and eradicate 'sex' completely. His Bill is nothing short of an Orwellian Anti-Sex Law (see line 1, page 2 - "sexual activity (of any kind)").

- He refers in lines 13 to 16 of page 2 to any articles "made or intended for use in connection with or for the purpose of stimulating or encouraging - (i) sexual activity (of any kind)". What is wrong with sexual stimulation? Will the next step be Government Inspectors bursting into our bedrooms and throwing buckets of cold water over us, one wonders? The idea would be funny if the implications of Mr. Howarth's Bill were not so alarming.

There is also another very relevant and very important aspect to sexually

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explicit and sexually arousing material which must be acknowledged. Because of the dreadful killer disease AIDS, unprecedentedly urgent pleas are being made for all of us to reduce the number of our sexual partners. For some that will be no problem, but for many others requests to stop or even reduce the pursuit of what is, after all, a perfectly natural, instinctive activity, viz. 'sex', will be as impossible for them to comply with as would be requests to stop eating. However, sexually explicit books, magazines, films, videos etc. can be of positive help to many such people by providing sexual stimulation as masturbation aids (no pun on AIDS intended!). There is certainly no safer 'sex' than 'solo sex' and, although one does not pretend that it is preferable or, indeed, as satisfactory as sex with a partner, it does often provide a 'safety-valve' substitute and helps to relieve otherwise disturbing sexual pressures and frustrations. In some cases, it can even indirectly help prevent potential sexual assaults on non-consenting victims.

- These may be matters many people prefer neither to admit to nor discuss openly. Nevertheless we believe such things must be said, frankly and fearlessly, and the current AIDS-concerned climate makes it even more opportune and appropriate.
- In other words, sexually explicit (or as Mr. Howarth would no doubt call it "obscene" or "grossly offensive") material can IMPROVE your health and should be made freely and legally available, not suppressed even more. It may soon be the only means of sexual gratification some people will ever get.

§IV) The underhand way in which the Bill brings radio and television broadcasting under the provisions of the Obscene Publications Acts is quite deplorable. The fancy wording surrounding this in the Bill should fool no-one. It would appear that only pre-recorded material will be subject. In effect that means all material, since nowadays (and as an actor with more than 700 television appearances to my credit, I do know something about it) virtually all material is pre-recorded. Even if the programme is mounted live, almost invariably it will include pre-recorded sections.

I fear that this is as far as I can go at present since time has run out. If I am to get this to you before 9.30 a.m., I must cut it short, and many apologies for that.

There is just one last point. As I see it, there are two typographical errors in the Bill. On page 4, line 21 it states "... to which section 1(2)(a) above applies..." etc. There is no section(2). It has been omitted (see page 2). Also on page 5 in line 33 it states -'"broadcast" is to be construed in accordance with section 1(6) of that (the 1959 Obscene Publications)Act)' - There is no section 1(6) of the 1959 Obscene Publications Act, that we know of.

If these errors can be used to stop or at least delay the Bill technically, I thought they were worth pointing out!

With many thanks and in great haste,

Yours sincerely,

David Webb