Sense and Censorship— Some legal aspects*

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ONE MIGHT ARGUE that there is no English Law of Censorship as such and that when legal censorship is applied in England it is always a matter of protecting some particular rights of individuals or of protecting the security of the state when it has been threatened in some particular manner. In one English Law dictionary a Censor is defined as 'a person who regulates or prohibits the publication of any newspaper or the production of any play or any part thereof'.[1] By contrast in one American Law dictionary, Censorship is defined as 'the denial of right of freedom of the press and of the right of free speech and of all those rights and privileges which are had under a free government'.[2]

These are both very incomplete definitions, but the one does emphasise the right reserved by the state to restrict freedom of individual expression in the interests of society and its members as a whole, whilst the other emphasises that society is made up of many members and censorship must involve sacrificing some of the rights of some of those members.

Legal problems

IN looking at the legal problems of censorship there are three aspects which seem to require mention to start with:

1. *What exactly is to be controlled? In what media is censorship to operate?* There may be reasons for restricting certain forms of communication more rigorously than others. Subjects of control are not restricted to newspapers and plays. They include books, posters and television. By their nature plays and books may not have such

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wide effects as TV which is in the house and will almost inevitably be seen by young children even at a late hour.

2. *What form is control to take*? Basically the first question here is: Should items which are to be censored be banned altogether, or should their circulation simply be restricted? The particular question here of course is the manner in which different restrictions may be imposed over publication to adults as opposed to children. The second is: Should control occur before or after publication? One approach is to vet an article before it is made public and to forbid it if it infringes certain given standards. The other approach is to allow freedom of publication but to punish those who publish items contrary to specified legal standards, and only then to forbid expressly the particular article which they have published.

It is important to bear in mind that apart from censorship by the state there may be bans by other social groups, e.g. public libraries may ban certain books from their shelves. Thus Mark Twain's *Huckleberry Finn* was banned from certain public libraries in America earlier in this century, in one case as 'trash, and suitable only for the slums' and in another as 'a bad example for ingenious youth'. Similarly schools may restrict the admission of books to their libraries or the showing of films in their classrooms. Here also one may mention in passing the rather different aspect of censorship where the state or lesser organisations keeps secret types of information under its control, as where universities collect and keep secret files on students.

To impose censorship in advance can be particularly dangerous. It implies a machinery to vet publications, which is by nature paternalistic and which can all too easily become dictatorial. There are a great number of somewhat bizarre examples of censorship before publication, some of which are not far from home. One may mention the banning of Mickey Mouse films in Yugoslavia in 1937 on the grounds that they were anti-monarchical, and in East Germany in 1945 on the grounds that Mickey Mouse was 'an anti-red rebel'.[3]

In 1905 in England the Lord Chamberlain banned performances of Gilbert and Sullivan's *Mikado* for fear of offending our Japanese allies. The ban was shortly after broken by the band of a visiting Japanese warship playing tunes from the *Mikado* on the Medway. A little further away, in the 1930s, *Alice in Wonderland* was banned in one of the Chinese provinces because 'animals should not use human language' and 'it is disastrous to put animals and human beings on the same level'. This may in fact point to a far from flippant contemporary question of whether descriptions of animal behaviour by human beings is going to result in those seeing such descriptions being reduced to a level of animal behaviour themselves.

One other danger of pre-censorship appears in a recent report from Japan, where it seems large numbers of students are employed to sit in the custom sheds going through copies of such magazines as *Playboy*

covering up offending portions with a felt pen. Perhaps one might question the mentality of those who are on the one hand concerned to censor such pictures and yet are prepared to employ young people to spend days solidly looking at them.

Norman St. John Stevas, the well known Roman Catholic M.P., and lawyer, has written 'The one point on which all involved in the obscenity debate can be agreed is that censorship of books before publication is undesirable.'[5] The great legal commentator Blackstone wrote in the 18th Century 'The liberty of the press is indeed essential to the nature of a free state. But this consists in laying no previous restraints upon publications, and not in freedom from censure for criminal matter when published.'[6]

Therefore to ensure freedom of expression it seems desirable to impose controls on publication, not by vetting in advance, but by punishing that which is published contrary to definite legal standards. Here a great problem for lawyers arises, because it is a cardinal requirement of just laws that they should be clear, so that individuals can know in advance what is permitted and what is not. Most crimes, like theft, or wounding, can be fairly easily specified in advance, but it is peculiarly difficult to define in advance a standard of what may properly be presented for publication, whether it be in books, films or records. In one famous prosecution it appears that the accused had actually gone to the police to clarify whether it would be against the law for him to publish a detailed reference and address book on prostitutes. The police felt unable to advise him one way or the other and when he did publish he was in fact prosecuted and convicted.

3. The third aspect of censorship then is *What exactly is to be censored*? There seem to be four basic criteria for banning publications: (i) That which is against religious orthodoxy. In a Communist country of course this may involve banning any material which advocates religion in any form. (ii) That which is against the interests of state security. (iii) That which is threatening to the current moral standards of society, and (iv) That which is necessary to protect private interests. Here one may mention the laws against defamation of character, libel and slander, and such provisions as the ban on publication of matter relating to a legal case which is under consideration by the courts, so that no prejudice can arise.

The Current Debate

THE current debate is in the two main areas of censorship in the interests of state security and censorship of material regarded as morally offensive, which is summed up in the two terms pornography and obscenity.

1. *Censorship in the interests of state security* touches the law of

public order. Our state here does not normally censor political *views* even though they are quite contrary to the premises upon which the state is currently operated. Incitement to crime, however, is forbidden and this may amount to political censorship. Thus if an individual openly and specifically advocates violence against political opponents or against the police as the agents of their political opponents, or if an individual openly and specifically advises others to help themselves to private property, such an individual lays himself open to criminal proceedings.

If censorship of political *views* is fairly restricted, it appears to be more evident that there is censorship of political *news*. Here one encounters the problems of the Official Secrets Acts and also for example the recent efforts by some to impose greater restrictions on news from Northern Ireland. News perhaps inevitably tends to be presented from a particular standpoint, and can therefore be readily seen as a threat by those who take a different standpoint.

2. The area of *Censorship on moral grounds* is probably even more controversial, and I think that it is important to note that there is a strong link between this and the heading of state security. There seem to me three types of person who may publish material to which the moral censor may object; (a) Those who simply wish to titilate themselves and others with that which is morally unacceptable. (b) Those who wish to make money by publishing such material. (c) Those who publish such material on ideological grounds.

Ironically it may be that those in the last category are sensed by society as the most threatening, although their resources and power may be much less than that of the hard core 'pornbrokers'. On the face of it those who present views on sexual mores different from conventionally held ones are very like those who present different political views and who are traditionally allowed freedom in our society to promulgate their views. Radical sexual and political ideologies may well of course go together. Thus *The Little Red School Book* is designed to advocate a different social role for children from the official one, and this different social view includes a different view on sex.

Another illustration may be taken from the 28th issue of the underground magazine *Oz*, recently publicised by prosecution. In a typical letter item, which I have been careful to doctor, under a heading 'I Wanna be free', the article states 'This Society, although labelled permissive (by society itself) is not free enough to permit man to revert to his natural instincts in public. This ruling does not extend as far as animals.' A plea is then made for freedom for public sexual activity, and the article proceeds 'Surely we should have the right to make the choice. If it disturbs them, they do not have to watch, and if they want to, why not?' The 'act of making love' says the article is 'beautiful and natural and should be admired'.

This article, I believe stresses by its implications two attitudes which Christians and other opponents of such views may take. One is that such ideas are simply shocking and should be repressed. I suggest that in fact such ideas are rather more appropriately regarded as sadly impoverished. The next article in fact concludes 'animals it seems have a good thing. They are protected and left to do what they want. Why can't this sexual freedom be extended to us, after all we are only animals.' So much for that vision of sexual freedom as beautiful. However if the Christian view of man is so much more noble than this, despite the taint of sin, will the Christian view be furthered by suppressing this pathetic alternative?

More dangerous however in the ideology of these persons is the readiness to ignore the rights of others in pursuit of their own supposed freedom. Thus the article to which I have referred, after advocating a freedom campaign 'in your area now' including such diversions as dancing at funerals, says, 'then go ahead and do it. Live for the moment and not the future. Be free and tread on anyone who stands in your way.' What I suggest does emerge from *causes célèbres* like that of *Oz* is that the relationship between freedom in politics and sexual morals is important and difficult to disentangle.

The Law and Obscenity

THE main statutory provisions for the control of immoral literature are set out in the appendix. The ban is basically on the publication of that which is obscene, obscenity being defined as that which has a tendency 'to deprave and corrupt'. A similar test is applied to literature and in the theatre. From a legal point of view the Obscene Publications provisions have been heavily criticised.

Taking the offence of publishing obscene articles, it is not necessary to show that the accused intended to deprave and corrupt, but that he knowingly published an article which in fact had a tendency to deprave and corrupt. Therefore, the article itself rather than the intentions of the accused are what fall for the courts to consider. This gets round the problem of proving the state of mind of a person who does publish obscene material, but it distracts attention from the motive of the publisher, which may for example be clearly enough no more laudable than that of making as much profit as possible out of selling sexually stimulating and perverted materials. Concentration on the article rather than the publisher also side steps the problem of those who purport to be expressing the sexual side of a political creed, which we might regard as a corrupt and depraved creed but which they, however sadly and misguidedly, regard ideologically as desirable.

Next there is the thorny problem of showing just what does have a tendency to corrupt and deprave. Sexually suggestive, violent and

drug materials have all been designated as capable of corrupting and depraving on various occasions. In the light of the Court of Appeal's decision in the *Oz* case, the question of what has a tendency to deprave and corrupt has to be decided by a jury without the assistance of experts. However, the definition of a publication as having a tendency to deprave and corrupt clearly implies that some tangible harm is likely to be done to individuals who come in contact with the materials in question and this might really seem to beg for expert witnesses. Nevertheless even if one could rely on such witnesses it would seem singularly difficult to prove a tendency to deprave and corrupt by evidence.

If short term effects could be proved the problem would be straightforward enough, as, if it could be shown that persons reading a certain book were prone to rush out into the street and strangle the first passer by. Such evidence, fortunately does not generally seem to be available. What is thought more likely to happen is that in the long term the moral fibre of people reading or seeing or hearing certain materials may be weakened. Whether this may in fact occur, or whether on the other hand aversion to such materials may be built up is a matter on which authority seems unclear.

It may be important to note that, even if certain materials could be proved to change individuals exposed to them, the question would remain as to whether the change would constitute a corrupting and depraving. The fact is that juries seem now to be left to decide two things in obscenity cases: firstly whether an item is likely to change people, and secondly whether it would be a change for the worse sufficient to amount to a corrupting and depraving. The first question must be a difficult one to be honestly satisfied on, when it is hardly likely that a jury will regard itself as in risk of being corrupted by an allegedly obscene publication, any more than for example police officers in such a case are likely to admit that they have been subject to the risk of corruption in their investigations. In the *Lady Chatterley's Lover* case, Byrne J. said that, ' "deprave" means to make morally bad, to pervert, to debase, or corrupt morally. The word "to corrupt" means to render morally unsound or rotten, to destroy the moral purity or chastity of, to pervert or ruin a good quality, to debase, to defile'. Although such debasement may be deplorable, to prove it legally is not so straightforward. The subjective question of what amounts to unsoundness, rottenness and the other ingredients also remains subjective.

As the editor of the *Criminal Law Review* commented on proposals to redefine obscenity, 'Without wishing to discourage the attempt it does rather seem that any satisfactory definition is impossible of achievement. Any definition involves a value judgement on a matter where our values fluctuate sharply. The present test of tendency to corrupt and deprave if it has any meaning, means different things to

different people.'[7] The law on obscenity is further confused by a defence for proponents of material or plays found to be obscene who, and here with the help of witnesses, can show them to be 'for the public good', basically on the ground that they are of artistic, scientific or educational value.

Practical Problems

THUS there are legal problems in applying the law on obscenity. I suggest that there are other, no less important problems in enforcing this law, which raise the question of whether the criminal law is the appropriate method for dealing with this particular social problem.

There is first the danger of publicity. The very item which is legally condemned excites attention. Even if in censored form, its sales may swell considerably. In a rather different area of censorship it was interesting to note that a leader of the cult of Scientology in Britain maintained on television that attempts to suppress the cult in this country had provided it with what he assessed, perhaps with some exaggeration, as £2,000,000 of free publicity. Furthermore if a prosecution succeeds, the convicted persons often manage to make themselves out as martyrs furthering their own dubious causes and making the law appear as harsh and repressive. On the other hand if such a conviction fails, the control of obscenity by the Law is shown to be weakened and an aura of social approval or condonation is given to the very item which the prosecuting authorities sought to condemn. No wonder that as early as 1885, the then Home Secretary Henry Matthews said: 'It must be borne in mind that prosecutions sometimes do more harm than good, by making obscene publications more widely known.' He warned that such prosecutions should not be attempted unless their success was almost certain.

A further significant problem in prosecuting in obscenity cases is the very considerable cost involved. In the *Oz* case alone this has been estimated at from £80,000 to £100,000.

Furthermore there is the danger of driving pornography underground. Here the Danish experience obviously requires careful testing since it is maintained there that the level of pornography has declined with decreased profitability now that it has been brought out from the control of the criminal law and is no longer capitalised on in the black market.

If law is to be effective it may well be said that it must command adequate respect and adherence from members of society at large. Law, and especially criminal law, tends to be a negative thing. It limits, controls and forbids behaviour, rather than encourages positive standards of living. This is a view of Law of which Christians must surely be particularly aware, as the point is of course frequently

stressed in the New Testament. One way of looking at criminal behaviour generally is that criminals lack commitment to the values of the society against which they offend, and to that society itself. If this is so I suggest that it must be queried whether the negative sanctions of punishment for the uncommitted are going to lead the deviants to become more committed to that society, or more estranged. This is a problem applicable to criminal law generally, but I suggest that it may be particularly relevant in the area with which we are dealing tonight. Punishing a thief may help to teach him that he will lead a more comfortable way of life if he opts to learn an honest living. Punishing a brawler, may help to impress upon him that he could live a more secure and safer life if he stops getting involved in fights. I suggest that the positive alternative to indulgence in obscenity, reading pornographic books, or watching blue films or plays is that much harder to instil by punitive measures. Here perhaps it may not be unfair to ask whether increased concern with use of the Criminal Law to repress obscenity may not reflect an unwillingness or inability to become involved in a positive Christ-like way with those whose arid lives and values are seen as a threat to the very Christian values which they so desperately need.

Conclusive

IN terms of enforcing and applying the law, obscenity surely does raise considerable problems. Over-concern with law enforcement may also perhaps distract from the standards to protect which is the very purpose of this part of the criminal law. But, am I advocating that those who disapprove of obscenity should simply opt out from using the criminal law? From a Legal point of view I would say 'No'. Control of pornography which is political non-contentious seems to be fairly effective. The special Act promulgated against children's horror comics in 1955 has apparently been followed by a drying up of that problem. Much hard-core pornography is apparently controlled by confiscation under the Obscene Publications Acts without the trouble or expense of court proceedings being required. The possibility of such proceedings may remain a useful deterrent against those who are only out to make money from pornography, rather than those committed to some form of sexual revolution.

More attention could be paid to particularly threatening media like TV and street hoardings and other advertisements. Also greater parental supervision of materials used in schools could doubtless be exercised. Here in particular are areas where concerted action by opponents of pornography can surely be made. The point which I would stress is that from a legal point of view control of morally objectionable material should not be seen as a moral crusade, but

rather as an exercise of the rights of those who deplore and are offended by such materials. Those who call for freedom of publication may most effectively be met on their own ground, by asserting the right to freedom from annoyance and disgust at such activities as those advocated in public by the contributors to *Oz*. Such an approach forbidding goods which are offensive rather than likely to corrupt has been followed for example in a recent act dealing with unsolicited goods. Although it does not seem available under the legal terms of the Obscene Publications or Theatres Acts it seems to be the approach which juries are going to be likely to follow, now that experts will not be available to tell them what has a tendency to corrupt and deprave, and what does not. In any event the approach of banning offensive rather than corrupting material does seem to be that set where indecent literature is proscribed, as in various statutes referred to in the following reading list, like the Post Office and the Indecent Advertisements Acts.

In this paper I have sought to deal with some of the legal implications of censorship. I have no doubt that it is important for Christians to measure the secular law against Christian standards, and to seek improvement of the law in accordance with those standards. However, though important, the law is a negative thing. It seeks to regulate or prevent certain types of human behaviour or provides machinery for sorting out disputes and problems after they have arisen. There are those who see Christianity in this form, as a system of ethical rules. For some these are essential for a stable and harmonious society. For others they are repressive and restricting. However, to the committed Christian his religion is something completely different. It is a way of life growing out of a relationship with Jesus Christ. It is fundamentally positive and animate.

When Christians make moral pronouncements, there is a danger that those who disagree with such pronouncements, those against whom they are indeed directed, will simply challenge them. Then the Christians will just argue with these opponents on the rights and wrongs of certain types of behaviour, for example as we have been considering, the rights and wrongs of certain writings or performances. This argument can all too easily obscure what really matters, the positive Christian gospel, which it is the foremost duty of the Christian to proclaim. There is always the great problem for the Christian of how to uphold the moral standards which are clearly required by his faith whilst putting the emphasis not on the standards but on the faith itself. I think that this problem is in fact being met by those, who faced by pornography and other disturbing features of contemporary society, do not stress the features but the people involved in them. Again in the context which we have been considering they think of the writers, publishers and vendors of obscene books and 'the dirty old men' and others who read them, rather than the books themselves.

They concern themselves, not with offensive plays and films, but with the actors and actresses who prostitute themselves by performing in them, and the audiences who exploit them.

May I suggest in conclusion that this, for the Christian, especially acting specifically as a Christian, is where the emphasis should be, not condemning, by law or otherwise, the products of a society composed of the God-ignoring and the God-denying, but seeking to communicate at first hand, to those caught in the degradation we fear, the gospel we believe, or at least supporting in prayer those who may be more effectively equipped to preach it to such who need it so transparently.

APPENDIX I

SOME LEADING STATUTORY PROVISIONS RELATING TO CENSORSHIP UNDER ENGLISH LAW

I. THE OFFICIAL SECRETS ACT, 1911, AS AMENDED BY THE O.S.A., 1920.

S.2. Wrongful communication etc. of information.

(1) If any person having in his possession or control (any secret official code word, or pass word, or) any sketch, plan, article, note, document, or information which relates to or is used in a prohibited place or anything in such a place, or which has been made or obtained in contravention of this Act, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Her Majesty or which he has obtained (or to which he has had access) owing to his position as a person who holds or has held office under Her Majesty, or as a person who holds or has held office under Her Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contact—

(a) communicates the code word etc. to any person, other than a person to whom he is authorised to communicate it, or,

((aa)) Uses the information in his possession for the benefit of any foreign power or in any manner prejudicial to the safety or interests of the State))

(b) Retains the sketch etc. in his possession or control when it is contrary to his duty to return it (or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof). (Or

(c) Fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch etc.):

That person shall be guilty of a misdemeanour.

(2) If any person receives any (secret official code word . . .) etc., knowing or having reasonable grounds to believe, at the time when he receives it, that the (code word . . .) etc. is communicated to him in contravention of this Act, he shall be guilty of a misdemeanour, unless he proves that the communication to him of the (code word . . .) etc. was contrary to his desire.

II. RESTRICTIONS ON OBSCENE PUBLICATIONS ETC.

1. *The Customs Consolidation Act*, 1876 (S.42) prohibits the importation of indecent or obscene prints, paintings, photographs, books, cards, litho-

graphic or other engravings, or any other indecent or obscene articles. If Customs officials are satisfied that any material sent into the country contravenes the 1876 Act, they have power to seize it (under the Customs & Excise Act 1952). Unless the person to whom the articles belong opts to contest the matter in a Magistrates court the Customs Officials may destroy it.

2. *The Post Office Act*, 1953. (S.II(I) (b)) makes it an offence with a maximum sentence of 12 months imprisonment to 'send or attempt to send or procure to be sent a postal packet which—encloses any indecent or obscene print, painting, photograph, lithograph, engraving, cinematograph film, book, card or written communication or any indecent or obscene article whether similar to the above or not. . . .'

(In the case of *Stanley* 1965 I All England Law Reports 'indecent or obscene' were stated to 'convey one idea, namely offending against the recognised standards of propriety, indecent being at the lower end of the scale and obscene at the upper.')

3. *The Vagrancy Act*, 1824. (S.4). 'Rogues and vagabonds' are subject to 3 months imprisonment from a magistrates court under this statute. On subsequent conviction they can be sent to the Crown Court and sentenced to up to 1 year as 'incorrigible rogues'. Such rogues include 'every person wilfully exposing to view in any street road, or highway or public place or in the window or other part of any shop, or other building, situate in any street, road, highway or public place any obscene print, picture or other indecent exhibition.'

4. *The Children and Young Persons (Harmful Publications) Act*, 1955.

Persons printing, publishing, selling or letting *horror comics* may be fined up to £100 or imprisoned up to 4 months and copies of printing plates may be forfeited under this statute. The Act applies to any book, magazine or other work which is of a kind likely to fall into the hands of *children* or young persons and consists wholly or mainly of stories *told in pictures* (with or without the addition of written matter), being stories portraying—(a) the commission of crimes; or (b) acts of violence or cruelty; or (c) incidents of a repulsive or horrible nature; in such a way that *the work as a whole would tend to corrupt a child* or young person into whose hands it might fall.

5. *The Town Police Clauses Act*, 1847 makes it an offence, now punishable with up to 14 days imprisonment and with a fine of up to £20, when any person 'offers for sale or distribution or exhibits to public view any profane, indecent or obscene song or ballad, or uses any profane or obscene language. . . .'

6. *The Indecent Advertisements Act*, 1889, makes it an offence, now punishable with up to 1 month's imprisonment and a £20 fine to affix in any of a large number of specified places or otherwise to display in public 'any picture or printed or written matter which is of an *indecent or obscene nature*.' To give such an item to another to display is now punishable with a fine of up to £50 and imprisonment up to 3 months.

7. *The Judicial Proceedings (Regulation of Reports) Act*, 1926 imposes restrictions on salacious reporting of court cases (punishing with fines up to £500 and imprisonment up to 4 months, publication of 'any indecent matter or indecent medical, surgical or physiological details, the publication of which would be calculated to injure public morals.' Special reference is made to matrimonial proceedings.)

8. *The Unsolicited Goods and Services Act*, 1971. (S.4(1)) makes it an offence punishable by a fine of up to £100 for a first offence, and up to £400 for any subsequent offence if any person 'sends, or causes to be sent to another person any book, magazine or leaflet (or advertising material for any such publication) which he knows or ought reasonably to know is *unsolicited* and which *describes or illustrates human sexual techniques*.'

9. *The Obscene Publications Acts* 1959 & 1964.

By S.I. (I) of the 1959 Act 'an article shall be deemed to be obscene if its effect or (where the article comprises two or more distinct items) the effect of any one of its items is, if taken as a whole, such as to *tend to deprave and corrupt* persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.'

By S.3. of the 1959 Act, provisions are made for the search for and forfeiture of obscene articles.

By S.2. of the 1959 Act it is made an offence to publish articles, punishable with a fine and imprisonment up to 3 years. Such articles would seem to include both films shown other than at public cinemas and records or tape recordings.

By S.1. (I) of the 1964 Act it is an offence to have an obscene article in one's possession ownership or control, with a view to publication for gain, unless one proves that one had not examined the article and had no reasonable cause to suspect that having it could result in a criminal conviction. (A similar defence also applies to charges under S.2. of the 1959 Act).

By S.4. of the 1959 Act a defence is provided against charges brought under the Acts 'if it is proved that publication of the article in question is justified as being for the public good on the ground that it is in the interests of science, literature, art or learning or of other objects of general concern.'

(Note: Obscenity in terms of that which would tend to corrupt and deprave has been interpreted to include material dealing with matters of SEX, VIOLENCE and DRUG TAKING).

III. CENSORSHIP IN SPECIAL MEDIA

1. *The Theatres Act*, 1968 makes it an offence punishable by imprisonment up to 3 years to present or direct an obscene play (defined as in the O.P. Acts) with a defence of public good where the play is in the interests of 'drama, opera, ballet or any other art or of literature or learning.'

2. Films shown in public cinemas are regulated under the provisions of the *Cinematograph Acts*, 1909 & 1952, which give licensing powers to Local Authorities. These tend to be delegated to J.P.s and the certificates given to films by the purely voluntary *British Board of Film Censors* are usually applied.

3. *Broadcasting by the B.B.C.* is controlled officially by the Minister of Posts and Telecommunications, who is answerable to Parliament, but in practice leaves the Corporation to control the standards of its own programmes.

Broadcasting by I.T.V. is subject to the *T.V. Act* 1964 which by S.3. (I) (a) requires the Authority to 'satisfy themselves that, so far as possible . . . nothing is included in the programmes which offends against good taste or decency or is likely to encourage or incite crime or to lead to disorder or to be offensive to public feeling.'

APPENDIX II

BIBLIOGRAPHY

The following is suggested as some basic reading for those who would wish to consider these aspects further.

1. Harry Street, *Freedom, the Individual and the Law*, Penguin, 1963. This is an excellent introduction to legal control of individual liberty in the areas where censorship is applied in one form or another under English Law. New edition 1972.

2. David Williams, *Not in the Public Interest*, Hutchinson, 1965. Deals with Executive Secrecy and esp. the operation of the Official Secrets Act.

3. David Williams, *Keeping the Peace*, Hutchinson, 1967. Includes an analysis of the control of individual freedom of speech in public in the interests of public order.

4. 5. 6. For the famous debate between Lord Devlin and Prof. H. L. A. Hart on the relationship of Law and Morality, see H. L. A. Hart, *Law, Liberty and Morality*, Oxford 1963, Patrick Devlin, *The Enforcement of Morals*, Oxford 1965 and Basil Mitchell, *Law, Morality and Religion in a Secular Society*, Oxford 1967. Mitchell's book begins with a useful analysis of the Devlin-Hart positions.

7. C. of E. General Synod Board of Social Responsibility, *Obscene Publications: Law and Practice*. Short pamphlet.

8. J. C. Smith and Brian Hogan, *Criminal Law* (2nd ed. 1969). Butterworth. Chap. 17: Law on Offences against Public Morals, sect 3: Obscene Publications, and sect. 4 on Blasphemy. (A leading criminal law textbook.)

9. *Criminal Law Review:* 1965, pp. 471 & 522, D. G. T. Williams, The Law on Obscenity. 1970, p. 188, Graham Zellick, Violence as Pornography. 1971, p. 126, Graham Zellick, Films and the Law of Obscenity.

10. The judgment in the heavily publicised *Oz* Case, in the Court of Appeal, Criminal Division, is reported in vol. 3 of the *All England Law Reports*, 1971. (R. V. Anderson, p. 1152.)

11. For a number of discussions and views on the law relating to Obscenity, see e.g.: C. H. Rolph (ed.), *Does Pornography matter?*, RKP, 1961.) (Contributions by Lord Birkett, Sir Herbert Read, Lord Soper et al.) John Chandos (ed.): *To Deprave and Corrupt*, Souvenir Press, 1962. (Contributions by Lord Birkett, Norman St. John Stevas, Walter Allen *et al.* Norman St. John Stevas, M.P., *Obscenity and the Law*, Secker & Warburg, 1956.)

12. Howard S. Becker, *Outsiders*, Free Press, 1963, giving an interpretation of the manner in which individuals and groups may become progressively estranged from society. Marijuana users are primarily considered, but see pp. 30-38 on the development of committed deviance, particularly with relation to the literature of homosexual sub-cultures, referred to at p. 38. See also one interpretation of the development and effect of moral crusaders in chapter 8.

13. *The Pollution of the Mind: New Proposals to Control Public Indecency and Obscenity*. Society of Conservative Lawyers Pamplet, 1971.

[1] *Jowett's Dictionary* (Sweet & Maxwell, 1959).
[2] *Black's Law Dictionary* (A. & C. Black, 1968).
[3] Examples from Ann Lyon Haight, *Banned Books* (R. R. Bowker, 1970).
[4] *The Times*, December 13th, 1971.

[5] N. St. John Stevas, *Obscenity, Law and Society* (Secker & Warburg, 1956).
[6] Blackstone, *Commentaries*, pp. 151f.
[7] *Criminal Law Review*, February 1970, p. 65.
[8] *The Times*, November 12th, 1971.