

Laura Norder poses new threat to civil liberties

WHEN the Government's Criminal Justice and Public Order Bill was published on December 16 last year, it provoked much adverse criticism from the Opposition and in the media.

This was based mainly on what it did *not* include – for example, a proper statutory framework for crime prevention and the establishing of an independent review authority for miscarriages of justice – and for its controversial provisions regarding the abolition of the right to silence without inferences being drawn (both, incidentally, quite contrary to the recommendations of the Royal Commission on Criminal Justice).

However, regarding the provisions included in Part VII of the Bill, which concerns so-called "Obscenity and Pornography and

DAVID WEBB, Honorary Director of the National Campaign for the Reform of the Obscene Publications Acts (NCROPA), warns against the potential perils of the Criminal Justice and Public Order Bill's proposals on "Obscenity and Pornography and Videos."

Videos," hardly a squeak has been heard from anybody. The media has virtually ignored them and politicians of all political hues have either done likewise or presumptuously assumed universal approval.

Yet these Part VII provisions (clauses 64 to 68) contain some astonishing measures with truly alarming implications for human rights and civil liberties in this already grotesquely over-censored country.

Pandering to the baying hordes of its always unedifying right-wing "Laura Norder" faction and their familiar calls for quick-fix, over-simplistic solutions to "crime," a panicking Tory Government has, once again, targeted poor, innocuous "pornography" as its main scapegoat for all of society's ills.

If trouble brews, "sex" must be to blame!

Ever pressured too by the Mary-Whitehouse-Mafia group of MPs, the Government has swallowed, hook line and sinker, their emotive and dishonest propaganda in which they have been so improperly aided and abetted by over-zealous, bigoted, empire-building senior police officers who have absolutely no right to break Police Regulations by engaging in such public, political activity.

It has employed the well-tryed tactic of Mrs Whitehouse by presenting the need for still more ruthless, catch-all anti-pornography legislation under the deceitful guise of protecting children. At face value, this may seem highly proper and commendable, but Home Secretary Michael Howard's savage measures in this area in the Bill are anything but that.

Most worrying are those measures regarding allegedly "indecent" photographs of children under 16, and the extension of the Police and Criminal Evidence Act 1984 to make it an arrestable offence without a warrant for any alleged infringement of Section 2 of the Obscene Publications Act 1959 (that is, anyone who "whether for gain or not publishes an 'obscene' article" – publishing includes simply showing); or Section 1 of the Protection of Children Act 1978 (that is, anyone who takes any allegedly "indecent" photograph of a child under 16 or who publishes, distributes or shows such a photograph).

At present, repressive and intolerable though the Obscene Publications Acts are, and although allegedly "obscene" material can be seized with a search warrant, no *arrest* of any person is possible until after the courts have

made a decision on whether the seized material is or is not "obscene," that is, whether or not the person publishing or hiring or showing it has broken the law.

That is the least to be expected when, as we all know, the legal concepts of "obscenity" and "indecent" are capable of only the most subjective interpretation, and people invariably disagree over what is or is not "obscene."

If the Bill's proposals become law, it will mean that any individual police officer will, potentially, initially be able to arrest anyone he (or she) considers has breached the provisions of the Act (that is, has published "obscene" material).

He will thus be entrusted with the formidable – not to say impossible – responsibility of categorically determining on-the-spot what the Crown Prosecution Service and the courts currently take months – often years! – to decide, and even then with constant disparity and non-uniformity.

Still more frightening are the attendant powers that will allow police officers to raid people's homes (or indeed anywhere else) *without* a search warrant if they have "reasonable grounds" to believe that such an offence is being or has been committed – and remember that UK courts have, in the past, convicted material of a distinctly non-sexual nature as being "obscene" – for example, "horror" videos and even books of a political kind.

The arming of the police with so massively oppressive a power, the kind of power used by Hitler's Gestapo in the 1930s, is horrifying.

It is not difficult to foresee the kind of nightmare situations that could so easily result from such legislation, especially in the light of the recent horrendous cases of celebrated child photographer Ron Oliver and internationally eminent painter, photographer and historian Graham Ovenden, both victims of monstrous police "search and seizure" raids under the other Act, the Protection of Children Act 1978, as amended by the 1988 Criminal Justice Act, which made mere *possession* of allegedly "indecent" photographs of children a criminal offence. Both these men would undoubtedly have been arrested too (that is, instantly deprived of their liberty) if the present proposals had been law.

But Mr Howard's proposals go further. He

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now not only wishes to arrest people willy-nilly for exercising freedom of expression, something enshrined in both those great charters of liberty, the UN Universal Declaration of Human Rights (Article 19) and the European Convention on Human Rights (Article 10), but also wants to widen still further his already viciously draconian powers to do so.

His Bill proposes the introduction of the new legal concept of the indecent "pseudo-photograph" of a child under 16 – surely yet another field-day for the lawyers! He maintains this is necessary "to keep up with new technology" because "computer pornography poses a particular threat."

What that "particular threat" is, and what potential damage it would inflict, he neglected to say during the Bill's Second Reading debate in the House of Commons on January 11. Neither did Home Office Minister David Maclean when discussing the new provision in Standing Committee on February 15. And Committee member Labour MP Mike O'Brien (now £30,000-a-year parliamentary consultant to the Police Federation and dutifully spewing forth the police's most emotive and hysterical vested interest propaganda to the Committee with dog-like obedience) openly declared that he was merely wildly prophesying on what might occur, but that at present there was no real evidence of any deluge of so-called "computer pornography."

Even Sir Ivan Lawrence, Chairman of the

Home Affairs Committee, accepted that this was so during his press conference for the launch of his Committee's report on "Computer Pornography" on February 22. (NCROPA was invited to submit a "Memorandum" to this inquiry, but its submission has, significantly, been omitted from the Report. Sir Ivan apologised for this, but gave the dubious reason of it being too general. It is interesting to note, however, that all the "Memoranda" published in one way or another subscribed unquestioningly to the imposition of State censorship controls and prohibitions. NCROPA's did not!

Just as the legal terminology was deliberately left vague and imprecise when mere possession of "indecent" photographs of under-16 children was criminalised in the 1988 Criminal Justice Bill, in spite of the expressed fears and protests of the NCROPA, and no legal definition of what is meant by "indecent" was thus included in the legislation, so now in this Bill the terminology is to be left deliberately vague.

David Maclean openly boasted of this in Committee when, on February 15, he said: "We have deliberately phrased the (new) law so that it is wide." He went on to say that the new concept of a "pseudo-photograph" is a "catch-all" phrase – just as "indecent" has become a "catch-all" term resulting in many innocent people scandalously being treated as law-breakers by the police and Customs, and stigmatised as criminal perverts.

There are other disturbing measures in Part

VII of the Bill concerning the extended enforcement of the iniquitous Video Recordings Act 1984; imprisoning for three months (now amended in Committee at the behest of Mike O'Brien MP and the Police Federation to six months!) for mere possession of an allegedly "indecent" photograph of an under-16 child; and the increase of penalties, including the addition of prison sentences, for making "obscene," offensive or annoying telephone calls.

None of these measures, like those already detailed, will substantively "assist in the fight against crime and protect the public," which, according to the Home Secretary, is the "very clear purpose" of his proposals in the Bill. They are inappropriate, unnecessary and, above all, irrelevant.

But what most angers NCROPA about them is that either directly or indirectly, overtly or covertly, they all submit to absurdly broad and disproportionate considerations regarding children.

Of course society, quite properly, will never condone the coercive abuse of children by whatever means. That does not mean, however, that everything in life has to be reduced to only that which is suitable and 100 per cent harmless for children in whatever circumstances.

In any case, there are many products freely available for adults but legally proscribed for children because of their potential danger. Society expects, however, that parents who smoke will not permit their children access to their cigarettes. Parents who have alcoholic drinks in their homes are expected not to allow their children to down whisky-macs or gin-and-tonics.

It further expects that children are protected from the potential harms of a myriad of things, like domestic poisons, or household matches, or kitchen knives. The imposition of such parental discipline is demanded by society and in cases where it is not imposed and where society deems children are "at risk," society legally and properly intervenes.

Why should we not expect the same criteria to be applied to sexually and/or violently explicit material, however packaged and in whatever medium, including the medium of the VCR and the computer?

If parents genuinely consider the VCR or computer in their home is a potentially harmful piece of equipment for their children, the remedy is firmly in their own hands. They have the freedom and the right to remove it, or at least to control its use.

It is not a Broadcasting Standards Council, or a Video Standards Council, or a Computer Standards Council we need – but a Parenting Standards Council. The sooner our legislators rid themselves of the crazy notion that "Nanny State" must supplant individual freedom of choice and responsibility, including parental responsibility, the quicker we shall achieve true freedom of expression in this uniquely sexually repressed country.

Money the key to spread of freethought ideas

SOUTH Africa...Ireland...new assaults on knowledge by Education Secretary John Patten (militant RC) and Junior Health Minister Brian McWhinney (alleged Plymouth Brethren)...fundamentalist Islam's increasing influence and arrogance in the UK...

These are just some of the issues on which articles have been prepared or are in the process of preparation. We have a growing pile of excellent manuscripts on literary, philosophical and historical topics. As always, humour and satire abound in our "for publication" file.

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