The Mary Ward Centre 21/3/82

CENSORSHIP & OBSCENITY

As you may know, or as you may not know, I am the organiser of the National Campaign for the Reform of the Obscene Publications Acts. I founded this campaign - which from now on I'D better refer to as the NCROPA, so as to avoid having to repeat that very long name, which is, I know, such a mouthful - I founded the NCROPA six years ago by gathering together a number of like-minded people who shared both my vehement opposition to censorship and also my concern that a totally unrepresentative minority of the general public was becoming, or apparently becoming, increasingly successful in its efforts to force its own opinions and moral standards on others. This development was totally alien to the concept of what I had come to expect of a supposedly "free society" and it presented, as I saw it, an intolerable curtailment of individual liberty and the freedom of expression.

These highly-organised, very vociferous self appointed "guardians of the nation's morals" had, in effect, set themselves up as censors - Oxford Dictionary definition, "One who exercises official or officious supervision over morals and conduct". In their supreme arrogance, they had taken on such a role quite uninvited and, so to speak, ~~unilaterally~~ unilaterally. They were not short of allies either - not flesh and blood allies, you understand, but enormously powerful allies in the shape of the many censorship laws which this country still retains. None, of course, more powerful than the iniquitous Obscene Publications Acts of 1959 and 1964. The 1959 Act contains the main provisions for the censorship of so-called "obscene" publications and is described in its pre-amble as (READ) "An Act to amend ..... pornography". The 1964 Act was an act to strengthen the 1959 Act as its pre-amble states.

In drafting the 1959 Act, Parliament attempted the impossible by trying to define "obscenity" and the result was the now famous, or infamous - certainly fatuous - definition that (READ) "For the purposes of this Act .....embodied in it". People have been trying to define "obscenity" for decades. They are on a hiding to nothing since "obscenity" is indefinable, except in highly subjective terms. It means different things to different people. What is "obscene" to ~~me~~ you is not necessarily "obscene" to me. What is obsceneto Lord Longford is almost certainly not obscene to me. - and what is "obscene" to Mary Whitehouse is - almost everything! - even plays at the National Theatre! ~~I shouldn't wonder!~~ and I'll have a word to say about that a bit later on, if there's time.

However, notwithstanding attempting to define the indefinable, the Government's legal drafters incorporated in their definition of "obscenity", that which would "tend to deprave and corrupt". Well, the words "deprave" and "corrupt" are them-

selves capable of being almost as widely interpreted as "obscene". Again any such interpretation will inevitably be wholly subjective. Who can say for certain that an article would be liable to "deprave" and "corrupt"? Certainly it has never yet been proved and, according to ~~XXXXXXXX~~ one R.M. ~~Bowring~~ Jackson Dawnay, one time professor of the laws of England in the University of Cambridge, cannot be proved. He is quoted in the Arts Council of Great Britain's Report of the Working Party on the Workings of the Obscene Publications Acts, in 1968, as saying: (READ) "The supposed depravity ..... verifiable facts". Furthermore "depravity" and "corruption" are immeasurables. The classic refutation of the fallacy that such concepts as "depravity" and "corruption" can be measured was made by Gerald Gardiner Q.C., (now Lord Gardiner and a former Lord Chancellor) in the famous "Lady Chatterley's Lover" trial at the Old Bailey, about D.H. Lawrence's novel in, I believe 1960. He said on that occasion:- "Nobody suggests that the Director of Public Prosecutions becomes depraved or corrupted. Counsel read the book; they do not become depraved and corrupted. Witnesses read the book; they do not become depraved and corrupted. Nobody suggests the Judge or the Jury become depraved and corrupted. It is always somebody else; it is never ourselves."

The "Lady Chatterley's Lover" case is often cited as a milestone in the fight against censorship, since ~~xxxxix~~ it led to the gradual ~~and~~ virtual end of prosecutions under the Obscene Publications Acts of books with so-called literary merit (although ~~I'm sure John Calder will remind me of~~ there was the prosecution of his publication "Last Exit To Brooklyn" in 1968). That may seem so. However, John Mortimer, the Q.C. and playwright, thinks that since that trial little has really changed. In any case "literary" merit is a pretty vague expression, as is "artistic merit", both cited under the 1959 Obscene Publications Act as being defences for the "public good", whatever that means!

The prosecution of another book, however, which certainly had no claim whatsoever to "literary merit", and some 16 years after the "Lady Chatterley" trial, provided the final motivation for me to swing into action and set up the NCROPA. The book being tried, or rather the publisher, one Heinrich Hannau, and again most suitably for such a heinous crime!, at the Old Bailey, was this "Inside Linda Lovelace", the story of the Linda Lovelace who found fame, if not fortune , through the American, hard-core porno film "Deep Throat". Incidentally "Deep Throat" is still showing in New York more than 10 years after it began its run whilst we here in censor-ridden Britain, are still legally forbidden to see it. In fact, only ~~last week~~ two weeks ago, at the Inner London Crown Court, a Victoria shop owner was sent to prison for 28 days for having possession for gain a video-cassette of this film, which the jury of 10 men and 2 women found "obscene", i.e. likely to deprave and corrupt.

having watched the film,

That means, presumably, that all those 12 jurors and the judge, are now hopelessly "depraved" and corrupted" - not to mention the millions of Americans who have already seen the film throughout the past 10 or 11 years - including myself since I, too, saw it in Hollywood in 1976!

The defendant, Heinrich Hannau, was, quite rightly, acquitted of the charge and, thanks to the enormous amount of free publicity afforded by the trial, made a considerable amount of money out of a singularly undistinguished publication which, otherwise, would almost certainly have remained practically unnoticed on the bookshop shelf. The whole ludicrous business cost the British taxpayer - that's you and me - more than £100,000 in legal costs. I do, however, want to make one very important point. As far as I'm concerned, and indeed as far as the NCROPA is concerned, it does not matter one jot or tittle that this book may be a rather tatty little volume. In a "free society" we must "free" to have the bad and the good, the ugly and the pretty, the undistinguished and the distinguished, the porn and the art. Once society starts trying to draw arbitrary lines between what is permissible and what is not, it is the thin end of the wedge and, in my view, and I don't believe I am over-stating the case, the beginning of the creation of a totalitarian society. (refers to Heinz? + Whites) + Moral Majority programme on TV. Dangerous.

Every year, hundreds of thousands of harmless books and magazines are being seized by the authorities and destroyed. Thousands more films and video cassettes are also being impounded and confiscated. Thousands of valuable and costly police man-hours are being wasted on these futile exercises, often carried out by some police chiefs with a fanatical zeal more appropriate to a mediaeval witch-hunt, and at a time when, for example, many old people are too frightened to go out on the streets at night, and many police forces are still under strength and in the Meotroploitan Police force still seriously under strength - and my authority for saying that is no less a person than Mrs. Thatcher herself, who told M.P.s in the House of Commons on 18th February that (READ) the police in London "were still about 1500 short of establishment" and she went on to say that the establishment may have to be increased. No doubt a chief constable like James Anderton of Greater Manchester, who openly boasts of giving high priority to the hounding of "the merchants of filth" but, as a matter of deliberate policy, of going soft on motorists and motoring offences / can sleep soundly in his bed at nights in the knowledge of this. He actually said this in his annual report of a few years ago. Motor vehicles are potential killers and do, in fact, kill thousands of people in this country every year. That is indisputable. But I have yet to hear of a single case of anyone having ever been killed - or harmed even - by a sexy book or film. Yet that is his considered sense of priorities. But James Anderton's emotive / and completely irrational response to this matter is repeated throughout most of

the Establishment in this country ad nauseam. Again, only last week, we were regaled with yet another vicious tirade by the judiciary against "that filthy trade", as Lord Justice Lawton described it when giving judgement of the Court of Appeal in a case against Christopher Holloway, who had been jailed for six months and fined £3500 for a first offence of having "obscene" articles for gain in his Soho shops. In his infinite wisdom, the ageing judge declared "There is evil in this type of pornography and it is an evil that has to be stamped out". I have written to the learned Lordship and I have asked him just where he has been for the past 16 years, because it is quite obvious that the realities and truths of the present-day world have not yet penetrated his blinkered existence. Has he never heard of the Williams Committee - the official Government sponsored Home Office Committee on Obscenity and Film Censorship, which was in session for nearly 2½ years, under the chairmanship of Professor Bernard Williams, Provost of King's College Cambridge and a most eminent academic and philosopher? This Committee, a distinguished one by any standards, including amongst its members a Bishop, a former Chief Constable, a girls' school headmistress, a judge, a clinical psychologist, two professors, this Committee presented its detailed report (HERE) to Parliament in November 1979. It's findings and recommendations were unanimous. It found that, basically, so-called "obscene", or "pornographic" or sexually explicit material was harmless and, with certain limitations, should be legally permitted for those adults who would wish to have it. The NCROPA disagreed with some of its findings and some we found inconsistent with other of its recommendations so we published an appraisal of their Report (HERE) which we presented to the Home Secretary in April 1980. Our main points of disagreement were our

1. That all visual material (i.e. films as well as books & mags.) should be treated the same.
2. That there should be no pre-censorship of films, only pre-classification.
3. That live sex shows should be permitted.
4. That cinema clubs should be allowed to continue to operate as now.
5. That all offences should have the right to trial by jury.
6. That the Williams definition "offensive to reasonable people" is unworkable and unacceptable
7. That the onus must always be on the prosecution to prove an "offence"

With one thing, however, we were in total agreement and that is that the present laws were chaotic and that there should be one new comprehensive statute to incorporate a general liberalisation of all our censorship laws.

But there is more - much more about which I have ~~shall wish to~~ reminded and hopefully ~~or perhaps~~ enlightened. ~~Him~~ Lord Justice Lawton ~~of~~ of the other/major earlier responsible investigations into the subject. Over the past 16 years, all of these major investigations into sexually explicit material have come to the same conclusion as the Williams Committee. They ~~were~~ have been unanimous in agreeing that so-called "obscene" or "pornographic" or sexually explicit material, call it what you will, is harmless and should be freely available to consenting adults. These major investigations included the Danish Forensic Medicine Council's Report to the Danish Penal Code Council in 1966 (which led to the lifting of virtually all/sexual legal restraints including, of course, the freeing of pornography; the Arts Council of Great Britain's Report on the Workings of the Obscene Publications Acts in 1968, this (SHOW); and the United States Presidential Commission on Obscenity and Pornography in 1970/which Show sat for two years and conducted a great deal of empirical research.. Just how many more of these investigations do we have to have before ignorant judges - and politicians - are to be convinced? Virtually no really reliable or credible evidence - evidence as opposed to whims or fancies, that is - has been produced that so-called "obscene" material causes actual harm. On the other hand evidence that it is harmless, and indeed often positively helpful, is massive and overwhelming. Even the much publicised supposed link between the incidence of rape and sexual violence and the availability and effect of "pornography" is a myth. In the recently published crime statistics for last year, which have caused such a furore both in and out of Parliament, the only crime figures which showed a decrease, whereas all other types of crime showed a dramatic increase, were murder and sexual offences. It is really grossly irresponsible of people who should know better, who are in privileged positions, like/for example Ronald Butt of "The Times" and "Sunday Times"/, and the late Lord Chief Justice - and now the new President of the Arts, Assn of Schoolmasters & Union of Women Teachers - to blame sex for all the world's ~~troubles~~ problems. Typical of the kind of nonsense he churns out was this (SHOW) article he wrote for the January 28th issue, headed "Why we live in a rape culture". I wrote a letter to the letters column but, not surprisingly, it was not published, although I did send a copy personally to Mr. Butt which he has acknowledged. I think it would serve very well if I read part of that letter now. (READ) "Mr. Butt's conclusion that rape..... I would Think".

The N.C.R.O.P.A.'s aims, therefore, have been simple and straightforward from the outset. We believe that every adult should have the right to see, read and hear whatever he or she chooses for him or herself. In other words/freedom from censorship for "consenting adults". That phrase and another of similar brevity, "no co-ercion", has permeated and coloured all NCROPA thinking on the matter. Obviously where children are concerned in sexual material, co-ercion would be inevitable. We, of course, condemn outright such material and that is why we ~~gx~~ have always supported measures for

the "protection" of children. We also go along with certain limited measures for the "protection" of those adults who do not wish to be forcibly affronted by material that they would deem offensive. But I do stress the word "limited". I believe that it is ~~often~~ a very good thing for people to be shocked sometimes. The Indecent Displays Control Act, which was introduced ostensibly to cater for people with such delicate sensibilities, and which came into force on October 27th last year, was a classic example ------- on to 5(A)

(A)

~~classic example~~ of the kind of legislative measure that we could not go along with. Whatever Tim Sainsbury may claim to the contrary, his Private Member's Bill ~~is~~ was, in fact, a censorship Bill. It has two very serious flaws, as far as we are concerned. Firstly there is no legal definition of "indecent" and secondly there is no built-in safeguard, in the shape of the D.P.P.'s consent, against frivolous and vexatious private prosecutions. When we met Mr. Sainsbury to discuss his Bill ~~(which meeting, incidentally, he conducted like a pompous headmaster who had caught two of his pupils masturbating behind the cricket pavilion),~~ he refused to include a definition of "indecent" because he had been advised, in effect, that it was impossible, he said, and the best way was to leave it to individual magistrates to decide. When we disagreed he invited us to submit a definition of our own. We did so. True it was rather long and, as you might imagine, very explicit. We maintained that any law of the land ~~xxxxxx~~ had no right to be on the Statute Book if it was in any way obscure and that people had a right to know when they were and were not breaking it. In consequence we ~~xxxx~~ argued that, if he regarded pictures of, say, erect penises or open vaginas or seminal fluid as "indecent", then that should be spelt out in unequivocal terms in the Bill. He remained unmoved, just as he did over our second major objection. He told me that people regarded it as a long standing constitutional right to bring a private prosecution in this country, if they so wished. When I asked him why my constitutional right to prosecute Mrs. Whitehouse for wasting police time, after she had reported "The Romans in Britain" to them for alleged "obscenity" when she had not even seen the play for herself, was ~~forbidden~~ not upheld by the Director of Public Prosecutions, he had no answer. (The D.P.P.'s consent was required by a clause in the Criminal Law Act of 1967 which was the appropriate one for prosecuting for that offence. ~~The D.P.P. had previously refused to prosecute her himself, as I had requested him to do, even though both he and later the Attorney-General had ruled that there was no infringement of the Theatres Act by the staging of "The Romans in Britain", i.e. that it was not "obscene" and had refused to prosecute it themselves or to allow her to prosecute it.~~ Notwithstanding our representations the Bill was passed virtually unchanged. Certainly not the very limited measure we envisaged. More Censorship legislation

In practical terms, ~~we would~~ require the repeal of the 1959 and 1964 Obscene Publications Acts, as well as considerable amending legislation to a number of other relevant acts (e.g. the 1953 Post Office Act, the 1876 Customs Consolidation Act and the Cinematograph Acts of 1909 and 1952). And, as the Williams Report recommended, and as I have already said, we believe that the very limited censorship legislation we envisage, should be contained in one new comprehensive statute. However, since the Williams Report was published, now nearly ~~more than~~ two and a half years ago, what has actually happened? In the first place, it was not until 26th June last year, more than 18 months after Williams reported, that the House of Commons even had a debate on the Report. I was present in the public gallery for that debate (~~I~~ at one end of the row, Mrs. Whitehouse and

(A)

~~some tambourine-bashers from the Salvation Army at the other~~). A pathetic 16 M.P.s condescended to attend that debate - out of 635! Twelve Tories and four from the Labour side - not a Liberal in sight! That is the measure of the importance they apparently attach to this matter. Although as I said to John Wheeler, the Conservative MP. for Paddington, City of Westminster, who spoke in the debate and a supporter of thhe NACROPA philosophy, perhaps we should be pleased in the small turn-out. Obviously there is no vast public outcry against the mountains of "filth" which, according to people like Sir Bernard Braine, are engulfing and poisoning our country. He, incidentally, wasn't even amongst the Tory twelve! What worried me most, though, about those few that had bothered to turn up - and presumably they did so because of a special interest - was how badly informed they nearly all were.

In the debate we heard Patrick Mayhew, Minister of State at the Home Office, tell the assembled multitude that ~~his right honourable friend~~ the Home Secretary's view (the Williams Report) is, that while he remains very willing to consider the possibility of legislation in this Parliament, he does not at present see any early prospect of general Government legislation in this field. That was nothing new to our ears. We had been told that by Mr. Whitelaw personally when we had a meeting with him at the Home Office on January 21st last year. However, (and I must be frank with you here.) although we have never been hopeful of any dramatic changes in the present law whilst the present Government is in office ~~(in spite of it being formed by a political party which constantly campaigns for election to office on a platform of anti-censorship and/freedom of the individual in almost fanatical fashion)~~, we did at least expect the status quo to remain and certainly no <u>additional</u> restrictive legislation. It was not long after our meeting with the Home Secretary that Tim Sainsbury got going with his Displays Bill which I have already talked about. Admittedly this was a Private Member's Bill and, since he had come top of the ballot, ~~they~~ the Government could hardly do anything about it even if they'd wanted to. At first they claimed they were neutral in their attitude towardsit, but it soon became clear that they had more than a finger in the pie and they finally ended up giving it their positive support. The Williams Report had stressed that there should be no more "piecemeal" legislation in this whole area of censorship. On October 2nd we were again invited to the Home Office to give our views on discussions (not even proposals, we were told) about possible legislation concerning private commercial cinema clubs. The legislation they were "discussing" would quite clearly have rendered <u>all</u> private commercial cinema clubs illegal "at a stroke", to coin a phrase. We objected to their proposals virtually in toto. But I'll come back to this in a moment.

On 13th October, after Being given assurances by Ken Livingstone, and other G.L.C. leaders, that it was not the policy of the present County Hall administration to

(A)

implement out-moded, repressive censorship restraints, the Greater London Council voted to include in the next Greater London Council(General Powers) Bill, provisions for the licensing of sex shops and all sex-oriented premises. Three members of the controlling Labour party spoke against such measures, but when the vote was taken, one of them voted for them and the other two abstained. All other members voted for them, from both parties. On the face of it you may well be wondering why we should object to such measures. Well, in the first place we are opposed to the whole concept of licences for sex shops per se. If you are going to have licences for sex shops, why not licences for shoe shops, or antique shops or greengrocers shops - or religious bookshops? Where does it all end? How long will it be before we all have to have a licence to copulate in our own bedrooms? But in the second place, the conditions for the granting of such licences were so abs dly harsh, that only a Mary Whitehouse or Archbishop of Canterbury would qualify. True we ~~have already~~ persuaded the G.L.C. and L.B.A. officials to make some important changes in the Bill, but we were due to meet them ~~last Tuesday~~ on January 5th, at their invitation, to discuss it further. And what happens? On 22nd December, and quite out of the blue, Timothy Raison, another Minister of State at the Home Office announces in the House of Commons that the Government is, in effect, taking over that part of the G.L.C. (General Powers) Bill relating to the licensing of sex shops etc. and will attach its own similar proposals to the Report Stage of the Local Government (Miscellaneous Provisions) Bill! Why this made us particularly angry, is because we were going to petition Parliament against the G.L.C. Bill, which is technically known as a Private Bill, and ~~we are~~ thus ~~empowered~~ we have a right to do ~~so~~. That means we go before the Parliamentary Committee to put our case in person. But because the Local Government Bill is a Government Bill, we ~~shall be~~ are prevented from doing so. As a result I hastily re-arranged our G.L.C./L.B.A. meeting ~~last Tuesday~~ on Jan. 5th with the Home Office officials and we spent 2½ hours with them going through the Bill line by line. We achieved some concessions and as you will know that Bill is now going through its stages in the House of Lords. However during the course of that meeting we asked about another Private Members' Bill regarding the licensing of private commercial cinema clubs which Peter Lloyd, Conservative M.P. For Fareham ~~is to~~ has introduced. And surprise, surprise, the Home Office are behind that one too! By getting a Private Member ~~a Bill~~ to bring it in, presumably any charges that the Government are only acting on those bits of the Williams - those very few bits, I might add - which recommended more restrictions, and yet not acting on the Report as a whole, will be obviated! And that Monday morning I have spent four depressing hours in the House of Commons listening to the Bill's (Cinematograph Amendment Bill) Second Reading without doubt it will put private commercial cinema clubs out of existence. It is all very depressing, I fear, and I can see the NACROPA in business for a long time yet. One wonders just how many more giant investigations we must have before the message is heeded. Of course I believe that the root cause of why this country, above so many others, is so tardy in coming to terms with this question, is hypocrisy.

It is, I fear, a very depressing picture for all those who have campaigned so strenuously for the abolition of censorship - not to

Now I mentioned earlier that we never really believed that the kind of changes in the law which we seek would be enacted by the present Government. But, in truth, why should we believe that? The Conservative Party, your party, has always prided itself on being the party to champion, above all else, the freedom of the individual, freedom of expression and free enterprise. I have made this point to various Tory politicians on a number of occasions, including, of course, Mrs. Thatcher. I have reminded her of her foreword to the 1979 Conservative Manifesto when she wrote (READ) "No-one who has lived ..... freedom" and, she goes on to say, in referring to the manifesto (READ) "But it sets out ..... under the law". At the time of the last General Election, I wrote to all the party leaders and put the following question to them:- (READ) "Will you if elected ..... themselves" and this is the reply I received from Mrs. Thatcher (READ) "The Conservative Party ..... offended by it". Well, ladies and gentlemen, society, as a whole, is <u>not</u> otherwise why are some four to five million sex magazines sold every month in this country? MPs from all parties have used phrases like "this multi-million pound industry" in one breath and "nobody wants these sex shops" in another. If nobody wants them, how do they remain viable business propositions - and if they are viable business propositions, that is surely upholding the Conservative philosophy of free enterprise? Again reading from the manifesto (READ) "Profits are the foundation of a free enterprise economy". Incidentally, in that letter from Mrs. Thatcher I've just quoted, it went on to say (READ) "One of our leading .... Election". Well, of course, I knew Mr. St. John Stevas's views already. They were made very clear in an article he wrote for "The Observer" on 1st February 1976 - and they coincide exactly with the views of this campaign (albeit for very different reasons), so much so that I wrote to ask him to serve on our Committee when it was being formed. He declined, however, saying that he was, at that time, a member of the Shadow Cabinet. Perhaps I should approach him again now. Anyway he wrote (READ) "The way out of the dilemma ..... enforceable". But where has Mr. Stevas been whilst all the recent debates have been going on in the House of Commons? Where, indeed, have the other MP supporters of ours been, like Neil Kinnock and Clement Freud and Mrs. Renee Short? They have, I regret to say, been nowhere to be seen and so <u>our</u> case - our unanswerable case, as we see it - has gone by default.

It is, I fear, a depressing picture for all those like us, who have campaigned so strenuously for the lifting of censorship - not its strengthening which is going on at present. It is a verifiable fact that this country now has more censorship than virtually any other of the so-called free Western World. (Even Spain and Portugal have lifted restrictions). As I wrote to Lord Justice Lawton on 13th April:- (READ) "All these other countries have long since had the great good common-sense to dispense with the kind of ridiculously out-moded censorship laws to which we, in this country, are still subjected. They cannot all be wrong. It could just be, however, that you

are".

Mr. Whitelaw, the Home Secretary, and whom, as I said, we met last yearon January 21st, told us that he sees no hope of any general legislation based on the Williams Report in the forseeable future, and yet he, too, wrote to me on 17th May 1978 "I must emphasise once again that nothing I have said could possible justify talk of censorship". He was referring to a speech he had made to the A.G.M. of the National Viewers and Listeners Association in Birmingham. And Mrs. Thatcher again, speaking on the BBC "Panorama" programme on 11th January 1977 said "The whole philosophy of the Conservative Party is based on freedom of the individual". I doubt if Christopher Holloway, now serving six months in Pentonville for a non-violent, first offence, or John Lindsay, now serving three months in Walton jail Liverpool ~~for~~ also for a first, non-violent offence, will agree with her. I still live in hopes that reason and common-sense will yet prevail and that ~~this~~ this freedom-loving Government will yet redeem itself - or am I being ridiculously naive?

I do hope not.