that 'in its most usual form it is a fiction, in prose or verse, narrative or dialogue, mainly or entirely concerned with the sexual activities of the imagined characters.' Dr. Robert Gosling sees it as

> erotic material whether visual or verbal that is believed to have a corrupting influence, rightly or wrongly in the event. . . . Alternatively, one might define it as all the visual material that at the present time and in a particular society is judged by the authorities as impermissibly erotic.[1]

The word itself, wrote Dom Denys Rutledge, is to most people unpleasing and evil-sounding, 'so that they hesitate to use it in public or say it only in a whisper, or look round first to see if children are present'.

> In the mind of the scholar responsible for the word in the big *Oxford Dictionary* (adds Father Rutledge) there seems to have been present a suspicion that it carried the idea of *inciting* to unchaste and lewd behaviour, for he quotes *Webster* as offering the murals at Pompeii, in rooms designed for the Bacchanalian orgies, as examples of pornography.[2]

So it is the presentation, he concludes, through words or the visual arts, of the unchaste. And he makes the profound observation that the portrayal of what is good and beautiful in sex may 'corrupt' as easily as the portrayal of the unchaste – 'perhaps more easily since it is always the positive good in an act which through external circumstances is evil that attracts. Man can never be attracted by evil as such.'

All of which is important in considering the development of printed and pictorial pornography as an industry. I propose to accept the separation of pornography from obscenity, practically as well as etymologically (which now hardly matters at all). In Europe and America some aspects of sexuality can be obscene though among tribes with fertility cults they may be sacred. There are private acts and functions with no sexual content that would be publicly obscene, though they could never entice, or incite, or tempt anyone into doing anything he should not do and might even make him sick.

1 and 2. *Does Pornography Matter?* Routledge, London, 1961.

So it was pornography rather than obscenity that took an immense modern impetus from the secondary education that was made statutorily compulsory in England in 1902. Since 1896 Northcliffe's *Daily Mail* had been building up a habitual mass readership (as well as his weekly journals), upon whom the pornographers gradually moved in. It was very largely adolescent, an audience of schoolboys; and some of them were very probably harmed by it in so far as they were being introduced to the greatest human love sacrament as though it were the bearded lady in a side-show. It is known that the pornographic books and magazines also reach a large number of lonely middle-aged and elderly men, to whom it would seem they can do no conceivable harm and to whom they may possibly afford a solace and relief that is free from harm to others. The trade built up until at the middle of the century a large industry was thriving on it, many of the publications and periodicals being covert subsidiaries of publishing houses that were always ready to disown them. There was money in twentieth-century pornography, but there was risk as well.

By 1956, when the Select Committee on the Obscene Publications Bill was receiving evidence, the Home Office was able to supply the following figures (I have selected those given for the five-year period then concluded):

	1952	1953	1954	1955	1956
Number of 'destruction orders' made	115	154	132	38	38
Number of articles ordered to be destroyed:					
Books and magazines	31,842	44,130	167,293	3,056	2,110
Photographs	8,329	20,141	10,803	7,142	3,019
Postcards	16,029	32,603	16,646	1,214	22,558
Miscellaneous	2,546	1,950	18,609	151	1,745

	1952	1953	1954	1955	1956
Persons found guilty of publishing obscene books	34	49	111	43	42
Total amount of Fines	£906	£2,786	£12,677	£1,830	£1,724
Range of prison sentences	6 to 18 months	3 to 12 months	3 to 18 months	2 weeks to 3 years	2 months to 1 year

The heavy figures for 1954, which was also the year of the 'big five' prosecutions (see page 93), were largely due to the seizure by the police of 108,000 copies of a book ordered by a stipendiary magistrate to be destroyed as obscene.

And in 1963, four years after the Obscene Publications Act came into operation, the Deputy Director of Public Prosecutions, addressing a public meeting on 'Pornography as Big Business'[1], said that the Soho bookshops engaged in this particular trade were then 'taking as much as £100 a day – that is £30,000 a year.' Referring in particular to obscene paper back 'novels' imported from America he said this:

> A few years ago there were practically none. That was because there was until 1961 a prohibition of the importation – except under licence – of American printed matter unless the article was in excess of a fixed value. In 1961 the restrictions on dollar imports were relaxed. Between 1961 and 1963 the Police and Customs between them actually seized 1,863,000 obscene novels. . . . Of course, when I say imported I am speaking only of those which were either seized by the Customs on entry or subsequently seized by the police. It is difficult to hazard a guess what the actual figure is, but one would think the police and customs were lucky if, between them, they

1. Reproduced in *Pornography and Public Morals*. Public Morality Council, London, 1963.

> managed to seize more than one in every half-dozen imported into this country.

Which would produce a total of about 12 million obscene imported novels. The Deputy D.P.P. added that 'pin-up magazines' were published mainly in the United Kingdom and that the extent of the trade could be judged from the fact that on one raid in November 1963, the police seized over eight tons of them. 'The printers and publishers are changing every day,' he said, 'and the police find that their efforts to stem the tide of these magazines are rather like those of Canute.'

The Wily Business Man

The Obscene Publications Act of 1964 amended the 1959 Act so as to catch the wholesaler, from whom no one other than the retail dealer, and certainly not a policeman, would be likely to obtain a book or magazine. It did this by making it an offence merely to *have* an obscene article for publication for gain. But the police now complain that it took away with one hand what it had given them with the other: it provides that the wholesaler – or anyone else – is not to be convicted

> if he proves that he had not examined the article and had no reasonable cause to suspect that it was such that his having it could make him liable to be convicted of an offence.

This was a present to the pornographer, wholesale or retail. 'The wily business man in the pornographic trade,' said the Deputy D.P.P. in the speech already quoted (a man in the wrong kind of business is always wily) 'is well aware of this defence.'

> He makes full use of it in this way. The American publishers send him quantities of books without invoicing them by their titles. They are merely ordered in bulk and shipped in bulk, and the documents don't show the titles or the nature of the books consigned.

It doesn't seem particularly wily, and in fact it was being done before the special defence was provided by law. But

form and (Jix told some angry questioners in the House of Commons) had been mailed as 'open book post', which was sometimes 'investigated' as a matter of G.P.O. routine. The Post Office was disturbed by them and sent them to the Home Office – today, if a postal official could bring himself to think them indecent, they would go straight to the Director of Public Prosecutions. The Home Office agreed about their indecency and thus they reached the D.P.P. by the more roundabout route. He suggested to the publishers that some of the poems should be scrapped, and they were. *Pansies*, 1929, is not the same book as *Pansies*, 1928. It was never suggested that these poems were 'obscene'. The postmen found them 'indecent'. The Post Office Act penalises anyone who encloses in a postal packet

> any *indecent or obscene* print, painting, photograph, lithograph, cinematograph film, book, card or written communication, or any *indecent or obscene* article whether similar to the above or not.

And although an obscene article is almost certainly indecent, as the High Court said in 1965,[1] an indecent article is not necessarily obscene. At that time the word indecent meant what any judge or magistrate took it to mean.

And Lawrence's Pictures

Six months later they took it to mean pubic hair, which is visible in the work of a thousand artists but was intolerable in Lawrence's paintings, because he also wrote non-reticent novels and poems. Pubic hair in a Modigliani or a Matisse might be just about tolerable, because they made no pretence to be anything other than artists, and you knew what those people were like. Lawrence was a novelist and poet, and a reprehensible one, only pretending to be an artist. When the Warren Galleries in London put on an exhibition of his paintings in July 1929 it was raided by the police, solely because of the hair. There has always been speculation about the means by which Mr. Frederick Mead, the Great Marlborough Street Magistrate, was convinced under the law as it then stood (the Obscene Publications Act,

1. *R.* v. *Stanley*, 1965, 1 All E.R. 1035.

1857) that there were pictures at the Warren Galleries that ought to be destroyed, and that he must arm the police with the necessary warrant to bring them before him. Did he go along to the Galleries to have a look? Did the police just swear by Almighty God that they had seen what they thought was hair? A popular view at the time was that they merely had to depose that the pictures were the work of this Lawrence fellow. The paintings were seized and the lessees of the Warren Galleries were summoned to show cause why they should not go to the flames.

For the defence, Mr. St. John Hutchinson urged (without much conviction, according to those who heard him) that they were works of art. Some notable artists and critics were there to say the same thing, including Sir William Orpen, Augustus John and Sir William Rothenstein. The magistrate waved them away as Sir Chartres Biron had waved away Mr. Desmond MacCarthy and the others, but with far less justification. They were not there to say that the paintings were not obscene. Their evidence was to be that, obscene or not, they were artistic – they 'furthered the interests of art'. Even as the law then stood, it is probable that the magistrate ought to have heard them. St. John Hutchinson knew this and was prepared to accept judgment for the moment and take the case to the High Court. But this can be expensive even if you win. The Judges have a way of 'making no order as to costs', which means that, even as the victor, you pay everything out of your own pocket, and, in particular, they will take this course where they don't much like the look, taste or smell of the appeal and the appellant. Who could say how they would react to the hair? And here was Mr. Frederick Mead offering to dismiss the summons on payment of a mere five guineas costs if the Lawrence exhibition was closed. Hutchinson took the offer and, to Lawrence's lifelong mortification, the exhibition was closed.

'*Surprising Songs*'

In 1932 there occurred what is probably the most extraordinary 'obscenity' trial of the century, the tragi-comedy of Count Geoffrey Wladislas Vaile Potocki de Montalk, poet,

playwright, eccentric and (he always said) uncrowned King of Poland. He was a familiar figure in the Soho of the 'thirties, and his dress out-Carnabied the Soho of the 'sixties – a wine-coloured cloak that swept the ground, bare feet in leather sandals, hair falling about his shoulders. (Whenever I saw him, which was quite often, he had an unaccountable retinue of pretty girls.) He owned and edited an odd little paper called *The Right Review*, in which he published his own verses and pursued his claim to the Polish throne. He had published one or two books of verse (one of them was called *Surprising Songs*), and their quality was deemed sufficient to establish him as an occasional reviewer of poetry for *The Observer*. Then he put together some translated poems of Rabelais and a parody of Verlaine, 'coarse' enough to frighten off any English publisher, and looked around for a printer who would enable him to publish them 'privately'.

He found an apparently willing linotype man and left the manuscript with him. The printer found that they contained words usually employed only by the less restrained scribblers on public walls. And he took them to the police. The police took legal advice, and Count de Montalk was summoned before the Bow Street magistrate on a Common Law charge of 'publishing an obscene libel'.

Why? If the police thought that Verlaine and Rabelais must be kept out of susceptible reach, why not ask simply for a destruction order? But de Montalk was committed for trial at the Old Bailey, and the Magistrate would not allow him bail in his own recognizances: he must find a surety. An incredible decision, since de Montalk had a known address and was highly unlikely to run away. He had been trained for the law, loved a battle, and was here engaged in one after his own heart. But he had to spend three days in the remand wing of Brixton Prison before his brother was able to find the necessary sureties. He was then released on bail.

On the 8th February, 1932, the trial came on before the Recorder of London, Sir Ernest Wild, K.C. The defendant was still wearing his long wine-coloured cloak,[1] and the Recorder contemplated him with obvious distaste. He was

1. I happened to be in Court throughout this trial. – C.H.R.

very ably defended by Mr C. G. L. du Cann, himself a writer of distinction; and the Recorder reminded him of his good fortune in this regard, allowing it to be understood that he himself was also a writer of poems. (In fact he had published, the year before, a volume of verses of an almost unbelievable banality called *The Lamp of Destiny*.) The jury read the de Montalk poems, police and other witnesses told how they had come to official notice, and Mr. du Cann called his client to the witness-box to give evidence on his own behalf. There de Montalk brushed aside the proffered Testament when he was asked to take the oath: his religion was paganism.

'Do you wish to affirm?' the Recorder asked him coldly.

He did not. He would swear in his own way.

'You will either take the oath or you will take an affirmation.'

He would do neither. He would swear, he said, by Apollo. There was a shocked silence, followed by a brief discussion as to the propriety of allowing pagan oaths in Christian courts. Finally the Recorder decided to let him swear by Apollo and see how it went. Montalk raised both arms above his head and the wine-coloured cloak hung from them like threatening wings. No one heard what he said, which may have been just as well.

'Do you now consider yourself sworn to speak the truth?' asked the Recorder, who had really been rather patient.

He did. His evidence proceeded, the Recorder taking it upon himself to do quite a lot of the cross-examining.

'Members of the jury', he said, when it came to the summing-up, 'you are men of the world. You know what these words mean?' He indicated them by their initial letters only. 'We all know what they mean? Are you going to allow a man, just because he calls himself a poet, to deflower our English language by popularising these words? . . . A man must not say he is a poet and be filthy. He has to obey the law just the same as ordinary citizens, and the sooner the highbrow school learns that, the better for the morality of the country.'[1]

1. Alec Craig, *The Banned Books of England and Other Countries*. Allen & Unwin, London, 1962.