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PREM 19/1792

OBSCENITY legislation (VIDEO tapes)
and meetings with Mrs Mary WHITEHOUSE.

HOME
AFFAIRS

PT 1:
OCTOBER 1983.

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
18.10.83		31.7.86					
25.10.83		6.8.86					
24.10.83		8.8.86					
25.10.83		26.8.86					
3.11.83		1.9.86					
9.11.83		4.9.86					
0.1.84		16.9.86					
20.1.84		PT1					
6.2.84		ENDS					
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15.11.85							
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31.12.85							
14.1.86							
20.1.86							
22.1.86							
24.1.86							
20.2.86							

PART 1 ends:-

PAB to PM 30/9/86

PART 2 begins:-

PAB to HOME OFFICE 2/10/86

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

Report of a Parliamentary Group Video Enquiry.

Chairman: Lord Nugent of Guildford. Vice-Chairman: Viscount Ingleby of Snilesworth. Chairman of the Working Party: Lord Swinfen.

Part 1 VIDEO VIOLENCE AND CHILDREN: Children's Viewing Patterns in England & Wales.

Report compiled by Dr Clifford Hill, Director of the Enquiry – Published 23 November 1983.

Video Recordings. A Bill to make provision for regulating the distribution of video recordings and for connected purposes.

Presented by Mr Graham Bright.

Ordered, by the House of Commons, to be printed, 20 July 1983.

ISBN 0 10 301484 5.

VIDEO NASTIES. The National Viewers' and Listeners' Association's recommendations to the Home Secretary on the Control of Obscene Videograms.

Published by National Viewers' and Listeners' Association.

18 July 1983

Signed _____

J. Gray

Date _____

25/9/2014

PREM Records Team

PRIME MINISTER

MEETING OF MINISTERS: OBSCENITY LEGISLATION

You asked for this meeting following your separate discussions with the Home Secretary and Judge King-Hamilton. The record of the first discussion is at Flag 'A' and I have attached the note which Judge King-Hamilton left at Flag 'B'.

The Home Secretary has sent the paper at Flag 'C'. This concludes that there should be a new Bill to protect children and an extension of the Obscene Publications Act to cover sex aids. He suggests further consideration on the removal of the exemption of the BBC and IBA. You may find that this does not go far enough and may want to explore the Policy Unit suggestion (Flag 'D') of a two stage procedure with the lesser offences being considered by Magistrates courts. This does not remove the problem of getting the wording right: and you may still want a small drafting committee as proposed by Judge King-Hamilton.

PSB

P A BEARPARK

30 September 1986

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PRIME MINISTER

30 September 1986

MEETING ON OBSCENITY - 4.30 PM, WEDNESDAY 1 OCTOBER 1986

A. The Present Law Under the 1959 Act

The present law has failed because it tries to do too much in one short definition. Lord Denning rightly complained about the applicability of the definition in R v The Commissioner of Police ex parte Blackburn 1980 (The Times, 7 March 1986). Many other Judges besides Judge King Hamilton have agreed. The problem is as follows:

The present law tries to combine the difficult matter of "what is obscene" with the second difficult question "what does a jury think will corrupt members of the public". The Home Office finds no answer. This is not surprising because it fails to break the definition down into its constituent parts. The tough solution which you seek and which we support can only be found by a radical approach to the definition itself (paragraph E below).

B. Politics

You have already assessed the climate. The average Tory voter is probably appalled by obscenity and is looking to us to be tough. Don't be put off by any Minister arguing that the public view is equivocal. The attitude of the man in the street is reflected by the 135 MPs who trooped behind Winston

Churchill, even with his sadly deficient Bill, last year, and is also reflected by the 6½ million people who have signed Mrs Whitehouse's petitions on this subject. National VALA say that, on their records, 90% plus of people asked sign up for these petitions. This may only be a straw but your post bag also provides enough straw to make a few bricks on this subject.

C. The Wider Importance for Action

1. Link with drugs: illicit drug profits are being invested into pornography production and vice versa. Scotland Yard's Vice and Serious Crimes Branch verify the situation here, and the same is true in the United States. An example is attached at Appendix 1.

2. Link with crimes of violence and sexual offences: there have been 600 or more serious attempts to prove different theses. Not surprisingly, there is little consensus and this is held up by the Home Office as proof that we must keep out of this difficult area! At least, this mass of academic work emphasises public concern. Moreover, one strand is now sustainable. Those who have a tendency towards violence are attracted to viewing violence (Appendix 2). Therefore, at its lowest, the flames of violence are fanned by some obscene violent material. Ultimately, it is not an academic matter, it is a question of commonsense. However, there is clear evidence that, in certain cases, pornography can directly

stimulate copy cat crimes of violence. An example of this is the case set out in Appendix 3, where a boy was shown pornographic material and went out and committed various violent sexual offences.

D. The Frame And The Argument To Avoid

We need to allow the courts to have discretion to use their commonsense and not be tripped up by legalistic niceties. We also need an offence which does not confuse juries and is John Mortimer proof! The arguments to avoid and which will always be brought up by the Home Office, are the application of examples of obscenity to the proposed law. We should leave particular cases to the discretion of the judiciary.

E. The Options

The options to solve the dilemma include:

1. A new list of gastlies: this would be tangled with disagreements and double meanings. No.
2. A new panjandrum on the old Lord Chamberlain lines: this would be laughed out of court by the media. No.
3. Repeal the present law and make the publication, importing sale or distribution of obscene material a new offence, using the Home Office's dictionary definition,

(namely, "repulsive, filthy or loathesome", but without the requirement that it should be corrupt. The material that also corrupts could be dealt with below in a further separate offence. This proposal has the logic of splitting up the present offence into its two constituent parts, and should be accompanied by clear guidance that the test to be applied is what the man in the street thinks about obscenity. This would catch what ordinary people felt was obscene.

4. This new lesser obscenity offence should be triable only in the Magistrates Court: the new offence will be much wider than the present one and could be tried only in the Magistrates Court, with the power of that court to remit to a higher court for sentence if it felt its powers were inadequate. Convictions in the Magistrates Court are likely to be more plentiful than in front of a Jury. The "beaks" are well known for their application of commonsense! I have suggested this idea to Mary Whitehouse who likes it.
5. Alternatively to 4, this new offence could be tried in front of a Jury. This may be pressed by the Liberals on all sides, but it would be cheaper and easier to obtain convictions in the Magistrates Court.
6. Have more serious obscenity offence in addition: treat the cases where obscene material is so bad that it is likely to deprave and corrupt as a separate more serious

offence. This option is similar to the present offence and would have two halves. It would be an offence to publish, distribute, import or sell obscene material that was also likely to corrupt or deprave. The definition of obscene would be the definition in the dictionary above and would so strengthen the old offence. This would be triable by Jury and would attract a more serious sentence.

7. Increased powers to seize assets of pornographic sellers: in a general review of the law, we should take powers to seize more of the assets of pornographers.

8. Add a further offence of laundering the profits of pornography. This is needed and could be enacted on the same basis as drug traffickers. It may be included by the Home Office in this year's Criminal Justice Bill.

F. Handling

We need speedy action if this matter is to get into this session. However, it is probably a Manifesto commitment? If you appoint a King Hamilton-type committee, it should report in a period that can be used by the Manifesto committee, say, 3 months.

G. Conclusion

A committee such as King Hamilton suggests might help, but it must report in double quick time. We support the proposal to split up the obscenity offence. We also recommend the matter be made a Government Manifesto pledge to reform the 1959 Obscene Publications Act hopefully on the lines we suggest. As for the removal of immunity for the BBC and the IBA, that should be included when we legislate on Peacock.

Hartley Booth

HARTLEY BOOTH

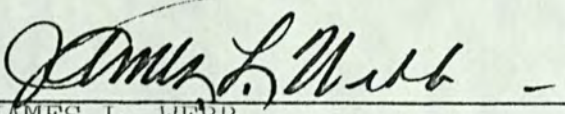
A F F I D A V I TTo Whom It May Concern

My name is James L. Webb. I am the duly elected and presently acting Solicitor General of the State Court of Fulton County.

The Solicitor General of the above named court has the responsibility for the investigation and prosecution of approximately 25,000 misdemeanor cases per year in the said State Court.

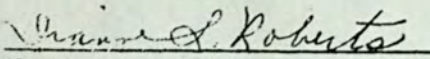
As the Solicitor General of the said State Court from January 1, 1983, until the present time I have had the opportunity of being involved in a large number of criminal cases involving the investigation and prosecution of Pornography and Illegal Drug cases.

It is my personal opinion and professional opinion as Solicitor General, as aforesaid, based upon the knowledge and information gained from investigations made by my office, that the monies made in the sale and/or distribution of Pornography and the monies made in the illegal possession, sale or distribution of Drugs are used, in many instances, one for the other. That is to say, Drug Money is used for Pornography and Pornography Money is used for Drugs.



JAMES L. WEBB

Sworn to and subscribed
before me this 23rd day
of September, 1986.



Notary Public

Notary Public, Georgia, State At Large
My Commission Expires May 29, 1989

The book cover features a central panel with a background of vertical black and white stripes. Two circular graphics, each containing a small, dark, abstract image, are positioned above and below the title. The title itself is presented on a white, tilted rectangular card with a thick black border.

**VIDEO
VIOLENCE
AND
CHILDREN**

**EDITED BY GEOFFREY BARLOW AND ALISON HILL
FOREWORD BY LORD COGGAN**

be easily transmitted and may swiftly become foundational values in a society.

Research Results

1 Exposure of children

The figures derived from the National Viewers' Survey conducted as part of this Enquiry revealed that large numbers of schoolchildren of all ages have been and are being exposed to films primarily intended for an adult market. The sample of families visited by Officers of the NSPCC together with data derived from other sources in the Enquiry indicates that many children of pre-school age are also being exposed to video films of this nature. The conclusion is that whatever is available for home viewing will be seen by children of all ages.

The current trend among some film makers of producing video films especially for the home market, that they know would not obtain certification for public exhibition, has resulted in the availability of films containing scenes of extreme violence that even the most liberal-minded producers and distributors did not intend to be seen by children. The British Videogram Association and other spokesmen representing the distributors have constantly dissociated themselves from any intention to expose children to the so-called 'video nasties' or other specifically adult material. But the fact is that a great many school children have actually seen a video film containing scenes of extreme violence. This is an undeniable conclusion from this Enquiry.

The sceptics are, of course, perfectly entitled to question the figures produced by our research and we freely acknowledge the difficulties of obtaining accurate information on this subject. Children are notoriously unreliable respondents. But so are adults! It is a recognised fact of any piece of social investigation that the use of self-completed questionnaires will produce unreliable statistical information unless there are a variety of built-in safeguards. Such techniques were faithfully used in our research and in presenting our findings to the public we believe ourselves to be social scientists of integrity who have taken all reasonable care to produce reliable figures. We would nevertheless like to make this point, that even if we are mistaken and our statistics are wildly inaccurate (although we most certainly do not believe them to be inaccurate) but if they were 10% or even 15% inaccurate – which is far beyond the normal limits of tolerance in modern social investigation – we would still have a situation in Britain in which approximately one-third of all British school children have been exposed to video films containing such scenes of extreme violence that they have been found to be legally obscene in a Court of law in the UK.

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2 *Effects upon Children*

The evidence produced in this Enquiry strongly suggests that children are adversely affected by their exposure to scenes of violence on video film. Normal, healthy children are affected in the short-term and may suffer disturbed sleep or other forms of anxiety reaction. As regards the long-term effects, nothing can yet be said with certainty as the VCR is a new social phenomenon. The indications suggest that the short-term harmful effects do not last long in normal, healthy children especially where there is wise parental support and a secure family and home environment. Where such basic security is lacking, the harmful effects may last longer and may do permanent damage.

3 *Attraction to Violence*

The evidence suggests that those who have a tendency towards violence or aggressive behaviour are attracted to the viewing of violent video films. The stronger the propensity towards aggression, the stronger the attraction to viewing scenes of violence.

The evidence suggests that the viewing of scenes of extreme violence has an obsessive characteristic that may be habit forming in a manner that demands increasing stimulation through more extreme forms of violence. This is probably the result of the 'desensitisation' process whereby normal healthy people, whose first reaction to violence is one of repugnance gradually become desensitised to it through continual exposure.

4 *Link with Behaviour*

The evidence strongly suggests a causal link between the viewing of violence and violent behaviour. It is recognised that this is a complex issue and that it is virtually impossible to eliminate all other variables, and just isolate only the experimental variable of viewing scenes of violence, which would provide positive proof. However, the link has occurred in the evidence of so many professional people at work among children that the evidence must be considered conclusive.

The copying of behaviour seen on television and film is a well-known phenomenon. The behaviour of children emerging from a cinema reveals what kind of film they have been seeing. Teachers regularly say that they know what was on television the previous night by what games the children play the next morning. The copying of scenes viewed on video film is therefore a well-known and well established phenomenon. The evidence in this Enquiry suggests a causal link between the viewing of scenes of extreme violence and actual violent behaviour in some children and young people.

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5 *Catharsis Theory*

The evidence from this Enquiry appears conclusively to explode the catharsis theory. There was a 75% response rate of consultant psychiatrists in the survey carried out through the Royal College of Psychiatry. Not one psychiatrist expressed the opinion that the viewing of scenes of extreme violence may enable a person to live out a horrific experience in fantasy or imagination and thus prevent them from carrying out such an act in reality. Of those psychiatrists who had found some evidence of a violent video film being influential in a patient's emotional state or behaviour, 77% believed that the viewing of violent videos could be harmful or disturbing and 79% of those who had found an association between their patient's symptoms and the viewing of violent video films believed that viewing violent videos could be harmful. The paediatricians also produced similar results.

6 *Parents' Attitudes*

The evidence strongly suggests that the attitudes of the parents is a major determinant affecting the child's viewing patterns. Where parents' attitudes are strongly protective, comparatively few of their children have been exposed to violent video films. In contrast, where the parents' attitudes are broadly tolerant and children are left free to watch whatever they wish, proportionately more of their children have watched violent video films.

This pattern is remarkably demonstrated by the NSPCC's sample. In those families where the parents themselves watch video films portraying scenes of extreme violence, a very high proportion of the children have been exposed to this type of film, whereas in families where the parents do not watch these films the proportion of children who have seen violent video films drops dramatically.

The evidence we have examined suggests that in some families where there is a history of violent behaviour, including child abuse, there is an attraction to viewing violent video films. If our evidence concerning a link between exposure to violence and violent behaviour is correct then we may well be indicating here one of the major sources of the growth of a syndrome of violence as a social phenomenon. Clearly this is an area that warrants further investigation.

7 *Further Research*

Our Enquiry results indicate a number of areas requiring further research. In view of the present public concern over the level of violence in society we would advocate a major research programme into the individual and social sources of violence. We urgently need to increase both our knowledge and understanding of these complex issues.

Other Cons

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From: THE PRIVATE SECRETARY

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~~CCBG~~
CCB/ATP



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

CF
Galt I have your file psc
+ Galt from papers
on Judge King-Hamilton

26 September 1986

Andy

Dear Andy

The Home Secretary has asked me to send you, in connection with the meeting arranged for 1 October to discuss how the law on obscenity might be strengthened, the attached papers he has had prepared on:

- reform of the Obscene Publications Act 1959;
- obligations of the broadcasters;
- public attitudes on obscenity;
- the film "Bizarre Tastes" (which the Prime Minister has had drawn to her attention).

I am copying this letter to Joan MacNaughton (Lord President's Office), Michael Saunders (Law Officers' Department), Timothy Walker (Department of Trade and Industry), Alison Smith (Lord Privy Seal's Office) and Michael Stark (Cabinet Office).

Yours sincerely
W R Fittall

W R FITTALL

P A Bearpark, Esq

OBSCENE PUBLICATIONS ACT

PRESENT LAW

The Obscene Publications Act 1959 makes it an offence (broadly) to supply an obscene article; an article is defined as obscene if its effect is such as to tend to deprave and corrupt those likely to read, see or hear it.

CRITICISMS OF PRESENT LAW

Mrs Whitehouse and her supporters have levelled three main-criticisms against the present law:

- (i) the threshold of obscenity is too high;
- (ii) juries' verdicts tend to be inconsistent with each other and, generally, to be less strict than those of magistrates;
- (iii) broadcasting is exempted from the 1959 Act.

3. Mrs Whitehouse puts part of the blame on the 'deprave and corrupt' test in the 1959 Act. This test derives from a judicial decision given in 1868 and is difficult for juries to apply literally.

4. There is concern also about matters such as bad language, with which existing legislation does not deal, and casual violence, only the most extreme manifestations of which are subject to the existing criminal law.

5. Mrs Whitehouse claims that the Obscene Publications Act is ineffective. In fact, the number of convictions has risen substantially in recent years:

<u>Year</u>	<u>No of convictions</u>
1980	162
1981	221
1982	234
1983	370
1984	429

Sentences?

Moreover, the Obscene Publications Act is buttressed by a number of statutes dealing with particular areas of concern (indecent displays, licensing of sex shops, video nasties etc) where reform of the Obscene Publications Act would have little or not direct impact.

PROPOSAL TO REFORM PRESENT LAW

6. A number of proposals have been put forward for amending the definition of obscenity in the Obscene Publications Act 1959:

(i) Williams Committee

Professor Bernard Williams' Committee, which reported in 1979, proposed that material should be banned only if its production involved either the sexual exploitation of children or the infliction of actual physical harm. Certain other material would be restricted to places where children could not enter and to mail order. Thus the Williams Committee recommendations would tend to weaken the existing law.

(ii)

List Approach

Mrs Whitehouse at one time advocated the list approach but she and most other commentators now accept that this would not be viable. Under this approach a list of activities, the portrayal of which would automatically render an article obscene, would be set out in statute. This was the approach embodied in the original Bill Mr Churchill introduced earlier in the Session. However it dissolved at a touch and he was forced to abandon it. Any list will inevitably cover certain material the portrayal of which ought not, in all circumstances and in all contexts, to be regarded as obscene and, conversely, would fail to catch other material which ought to be made unlawful.

It would be possible to draw up a narrow list of material which in all circumstances should be regarded as obscene (eg bestiality). But such material (insofar as it circulates) is already generally found by the courts to be obscene; and such a list would be counter-productive if, despite the statute making clear that the list was without prejudice to the general test of obscenity, the list was in practice treated as the touchstone of what was obscene.

(iii)

Judge King-Hamilton (Mrs Whitehouse's unofficial legal adviser) has drafted a Bill which provides, essentially, that an article would be obscene if

- (a) it contained objectionable sexual or violent material or it concerned drugs and
- (b) it could encourage similar acts or conduct or drug experimentation.

Such a test is misconceived. Pictures of, say, naked women do not "encourage similar acts or conduct". A prosecution in respect of even the most appalling material would fail if the prosecution were unable to prove that it could lead to imitation.

(iv)

Taste and decency

The Prime Minister has asked that consideration be given to the introduction of a test that material should not offend against good taste or decency as an addition to the deprave and corrupt test. The BBC and IBA are already required to ensure that programmes do not offend against good taste and decency. Many of the things which people find objectionable in the media - violence, sexual activity, nudity, bad language - can be thought of in terms of lapses in taste and decency.

"Taste and decency" would represent a reduction in the threshold of obscenity and would therefore in effect replace the deprave and corrupt test and be seen to do so. The deprave and corrupt test requires consideration of the effect of the article on individuals. It embodies a moral judgement. A taste and decency test would apply a different sort of moral test. It would be vulnerable to the criticism that taste is essentially an individual matter and is not a precise enough concept for courts to be able to apply the test predictably in criminal proceedings. It would be said that it is therefore not suitable as the basis of an offence which attracts penalties of up to three years' imprisonment. When challenged in Parliament as to whether it would apply to particular items the Government would be able to give little or no guidance.

The taste and decency test in the Broadcasting Act 1981 does not give rise to criminal proceedings but is enforceable only through the civil courts. The Court of Appeal have held that the duty it places on the IBA is a 'best endeavours' obligation; but if it were to be included in the Obscene Publications Act any breach would constitute an offence. Annex B deals further with the obligations of the broadcasters.

(v) Obscene to take dictionary definition

The deprave and corrupt test could be repealed leaving 'obscene' simply to take its dictionary definition. At the margins, this might bring in certain material which was "repulsive, filthy or loathsome" but did not deprave and corrupt. Conversely, it would fail to catch certain material which did deprave and corrupt (eg books inciting drug-taking and some violent material) but which was not repulsive etc. There might be advantage in simply leaving juries to reach their own definition of what was obscene in each case but it would probably make little difference in practice.

(vi) Grossly offensive to reasonable people

The Williams Committee proposed that material which was grossly offensive to reasonable people by reason of the manner in which it dealt with violence, sexual matters etc should be sold only in adults-only shops or by mail order. Instead, such a test could be used in substitution for the deprave and corrupt test so that material which was grossly offensive would be deemed to be obscene. Again, this would exclude certain material

which could deprave and corrupt but was not grossly offensive. The new words would be more familiar to jurors; but whether they would find them easier to apply, and what effect if any they would have on the propensity to convict, is more problematic.

Reform of deprave and corrupt test: Conclusion

7. The overall position is thus that there is no proposal to hand which satisfies the following necessary tests:-

- (i) clearly strengthens the law;
- (ii) is likely to be generally acceptable to Parliamentary and public opinion.

ALTERNATIVE APPROACH

8. The Government's strategy since it came to office in 1979 has been to support Private Member's Bills or (in the case of the licensing of sex shops) to introduce its own legislation to tackle particular problems which are capable of being dealt with in a self-contained measure and for which there is clear public and Parliamentary support for tightening up the law. As a result the law has been strengthened in the following areas:

- (i) indecent public displays (the Indecent Displays (Control) Act 1981);
- (ii) licensing of sex shops (Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982);
- (iii) licensing of 'adult' cinema clubs (the Cinematograph (Amendment) Act 1982);
- (iv) objectionable video recordings (the Video Recordings Act 1984).

9. Consistently with this strategy, the Government, while drawing attention to the shortcomings of the list approach in the Churchill Bill as introduced, offered Mr Churchill amendments, which were incorporated in the final version, designed to protect young people from unsuitable pictures in magazines and books. These amendments provided (broadly) that where pictures were supplied to children, or displayed in such a way that children could see them in the shop (eg by thumbing through a magazine) the test would be whether the pictures would tend to deprave and corrupt children in that age group regardless of what effect, if any, it would have on adults. There were exceptions for pictures in films and videos (which are subject to their own controls) and for pictures in art galleries or museums or in any work published in the interest of science, medicine, education or art. These provisions were designed to ensure that at least the more extreme "girlie" magazines would either be sold shrunk-wrapped or be removed onto a separate shelf behind the counter. In addition the Bill would have prevented shopkeepers accused of supplying such magazines from arguing that their effect on adults as well as children should be taken into account in assessing whether they would deprave and corrupt.

10. A further area in which the law could usefully be strengthened is the supply of sex aids. A recent judgement by the European Court (in the Conegate case) has shown that the Obscene Publications Act 1959 does not deal adequately with such items. This is because the 1959 Act deals only with the impact of articles on those seeing, reading, or hear them whereas the adverse effects of sex aids are not caused by seeing etc them. Some of the items in circulation are most objectionable including some which can cause physical injury. There is a strong case for bringing sex aids fully within the scope of the deprave and corrupt test in the 1959 Act. However certain conceptual difficulties in extending an Act designed to deal only with pornography would need to be overcome.

CONCLUSION

11. The best way forward would seem to be the introduction of a new Bill containing provisions based on those in Mr Churchill's Bill for the protection of children from unsuitable pictures and extending the Obscene Publications Act to cover sex aids. By building on and strengthening the existing deprave and corrupt test this would represent a clear tightening up of the law. The main part of the Bill would be directed specifically towards the protection of children.

12. Mr Churchill's Bill was talked out at Report Stage mainly because of opposition to the second main provision in the Bill - the removal of the exemption from the controls in the Obscene Publications Act of anything done in the course or furtherance of broadcasting by the BBC or the IBA. Consideration would need to be given, in consultation with any Private Member prepared to take up a new Bill and taking into account his position in the Ballot, to whether any new Bill should contain provisions to remove the broadcasting exemption or whether the risk of this jeopardizing the successful passage of the Bill would be too high.

THE OBLIGATIONS OF THE BROADCASTING AUTHORITIES

Statutory obligations are laid on the IBA and the Welsh Fourth Channel Authority by Section 4(1)(a) of the Broadcasting Act 1981 (which repeats earlier statutes). These require the authorities to satisfy themselves 'that nothing is included in the programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling'. Additionally, under Section 5(1) the authorities must draw up codes of guidance on violence and other matters with special regard to programmes broadcast when large numbers of children may be in the audience. Extracts from the IBA's guidelines are attached.

The arrangements for the BBC are broadly similar. In an annex to its Licence and Agreement, the Corporation recognises obligations on taste and decency set out in identical words to those in the 1981 Act. It also draws up similar guidelines for programme makers.

Cable television is also required to follow identical standards on taste and decency (Section 10(1)(a) of the Cable and Broadcasting Act 1984). Because the Cable Authority does not exercise direct control over programmes (but only licenses cable operators), cable operators are also subject (in Section 25 of the 1984 Act) to a criminal offence based upon the Obscene Publications Act 1959.

Enforcement

The IBA approves ITV programme schedules and it may, and often does, ban, re-schedule, or seek changes in particular programmes or series which have been proposed. Officials of the IBA preview sensitive programmes and on rare occasions will refer them to members of the Authority. A rota of IBA officials monitors all IBA programmes as they are transmitted and reports on them. The Authority takes up any lapses in standards with the ITV companies and in the last resort it may rescind the contract of a company which fails to maintain adequate standards. In a test case brought by Mrs Whitehouse over the programme 'Scum' the Court of Appeal held that the duty of the IBA to satisfy itself as to matters of taste and decency was a 'best endeavours' obligation and that it was for the members of the Authority to adopt appropriate working methods to secure

the requirements of the Act. In effect the Court endorsed the IBA's existing working methods, and rejected Mrs Whitehouse's contention that Authority members should preview all sensitive programmes.

The BBC being a unitary organisation operates differently from the IBA. Sensitive programmes are subject to 'referral up' the organisation before being made or broadcast, ultimately to the Director-General as Editor-in-Chief. Judgments on acceptability are made with reference to the guidelines approved by the Board of Governors. There are also regular discussions between the Governors and the editorial staff of the BBC on these matters, and a weekly analysis of correspondence from the public is discussed by the Governors. The Governors do not normally preview programmes, and the convention is that they express their view after programmes have been shown in the light of which guidelines and working procedures may be amended.

There is no evidence that the differences between the BBC and the IBA's methods of supervising programme standards produce significantly different results.

The broadcasting authorities deal with complaints from the general public on programme standards and hold public meetings at which these issues can be raised. Any member of the public can seek judicial review of the IBA's exercise of its statutory duty in relation to a particular programme or programmes, but the bringing of such cases is rare, and likely to be even more rare since the failure of Mrs Whitehouse in the 'Scum' case. In that case, the Court indicated that, because the issue was essentially one of value judgments, a single lapse by the IBA would not necessarily lead to the conclusion that they had failed in their general duty.

Since the BBC is not subject to a statutory duty, but only a voluntary undertaking, on this issue, there is no opportunity for judicial review by the courts. The undertaking is, however, part of a contract with the Home Secretary and could, in theory at least, be enforced by his revoking the Licence and Agreement. But this would be too draconian a sanction to be used in practice against the BBC in any particular case.

If the broadcasters' exemption from the Obscene Publications Act were lifted, the broadcasting authorities could be prosecuted, subject to the consent of the DPP, for a criminal offence if they broadcast material that appeared to be obscene; but the test of obscenity is, of course, nowhere near so strict as the taste and decency obligations to which they are already subject.

The powers of the Government

The Government has reserve powers to ban particular programmes or classes of programme. They have only been used five times since the beginning of broadcasting and never in relation to an individual programme. It does not have powers to set down rules or guidelines on programme standards, nor has it a right to be consulted on these matters.

OBSCENITY - PUBLIC ATTITUDES

It is notoriously difficult to gauge public attitudes on topics like obscenity. Opinion surveys tend to yield inconsistent results; and expressing disapproval about the amount of sex and violence in films, magazines and on television does not necessarily translate into supporting measures which impinge on adults' freedom to watch what they choose. What can be established is:

a) there is concern about the general level of violence on television and rather less general concern about the portrayal of sex on television, in films and magazines. Such concern as exists about television seems more likely to be tackled successfully by pressure on the broadcasting authorities to be more responsive to public opinion than by a change in the law on obscenity;

b) there is a perceived link between pornography and sex crimes;

c) there is not substantial pressure for a major new initiative in the field of obscenity.

1. Parliamentary Opinion

The Churchill Bill received its Second Reading by a majority of 161 votes to 31. In favour were 135 Conservatives, 18 Labour, 7 Alliance and 1 Scottish Nationalist. However the Bill foundered not only because of filibustering tactics by the Bill's opponents but also because of Mr Churchill's inability to generate sustained enthusiasm in the House.

In the last session there were only two Early Day Motions dealing with obscenity. Mr Thorne's motion (795) regretting the blocking of the Churchill Bill drew no additional signatures and Mr Winterton's (1083) backing the Report of the National Viewers and Listeners Association on reform of the Obscene Publications Act drew five signatures.

2. Correspondence

The only issue which has prompted a large number of letters to Home Office Ministers in this field recently has been 'video nasties' which were dealt with by the Video Recordings Act 1984. This yielded 213 letters in favour of action in 1983 (16 against) and 61 in 1984. Otherwise the level of correspondence on the obscenity law has remained low:

	<u>should be strengthened</u>	<u>should be weakened</u>
1983	35	9
1984	27	4
1985	28	2
1986 (to date)	12	1

The number of letters received at 10 Downing Street on obscenity is modest.

The Churchill Bill yielded 33 Ministerial cases in 1986 (17 favoured the Bill) and 111 letters from the public (83 against, of which most objected to Mr Churchill's 'list' approach).

There is a steady stream of complaints about the lack of taste and decency (including excessive violence and sex) on television: in 1985 there were 312 letters on the subject and in 1986 274; this compares with 384 letters on the 'Real Lives' programme and 286 on the BBC's temporary dropping of 'Dr Who'.

The most prolific cause of complaints to the IBA and BBC are scheduling and programme repeats. In 1984/85 they received 555 letters on taste and decency (including bad language) and 34 on violence; the figures for 1985/86 were 608 and 337 respectively. The 1984/85 BBC Annual Report, commenting on the 129,061 unsolicited letters of acclaim or criticism which they had received, states that 'it was not violence or the portrayal of sexual behaviour that caused most offence. Of the various categories, 'bad taste' featured most frequently. There was also continuing concern about bad language'.

.. Opinion Surveys

It is difficult to track changing attitudes because we have not been able to discover any useful and consistent series of questions.

Concern about pornography (the hard core of which is covered by the Obscene Publications Act) and its possible role in stimulating sex crimes is demonstrated by the following questions asked by Gallup:

Q: Do you agree etc with the following statements:

- a) the use of pornography is harmless and has no serious effects on those who have a taste for it?
- b) the use of pornography can trigger sexual assaults?

	<u>Harmless</u>		<u>Trigger assaults</u>	
	<u>March '86</u>	<u>Feb '82</u>	<u>March '86</u>	<u>Feb '82</u>
Strongly agree	1	2	17	14
Agree	17	25	60	58
Neither agree/ Disagree	9	10	5	8
Disagree	44	37	9	11
Strongly disagree	23	20	2	2
Don't know	5	6	7	7

These figures show a slight hardening of attitudes to pornography. Men and younger respondents take a more relaxed view of its likely effects.

In a Gallup survey of the causes of crime: violence in TV entertainment was identified as a very or fairly important factor by 67% of respondents in July 1981, this fell to 54% in October 1985; cinemas showing films with violence and sex was mentioned by 58% of respondents in 1981 and 50% in 1985. In a list of fourteen possible causes television violence ranked tenth in 1981 and twelfth in 1985, and violence and sex in cinema films ranked twelfth and thirteenth respectively.

In another Gallup survey (February 1986), respondents were asked to identify from a list what they considered to be very serious social problems: pornography was identified by 52% and ranked eighth behind various types of crime, drugs and bad housing but ahead of prostitution, gambling, drunkenness and homosexuality.

Thus far, various surveys convey a dislike of pornography (undefined) and concern about its possible role, together with concern about the impact of television violence, in promoting crime. A limited measure of support for Government action in the field was indicated in a survey conducted by Gallup in January 1986:

Q: 'I am going to read you a list of things that some people believe a Government should do. For each one can you say whether it is

'Take measures to reduce the amount of sex and nudity on television, in films and magazines'

Very important that it should be done	29
Fairly important	21
It doesn't matter	28
Fairly important shouldn't be done	8
Very important shouldn't be done	11

In a list of twenty topics it ranked in the middle below spending more on the Health Service, promoting equal opportunities for women, tackling pollution and withdrawing troops from Northern Ireland; it was comparable in popularity to restoring grammar schools and more popular than unilateral disarmament or 'spending as much money as is necessary to defend the Falklands'.

Nevertheless, the ambivalence of public opinion - and therefore the difficulty of identifying measures which will be widely welcomed and effective - in this area is shown by a more detailed survey conducted in October 1985. This

found opinion almost equally divided about whether there was too much sex on television, and although there was widespread agreement that there was too much violence on television, 58% agreed that there was no need for a new law to deal with it. Some reluctance to see the law intervene more extensively is further demonstrated by the following questions:

Q: I am going to read out some statements, for each of them would you please tell me whether you agree or disagree with it?

- a) The authorities should stop interfering and allow ordinary people to decide what is fit for them to see and read and what is not;
- b) Anyone over 16 should be able to see any film or publication about sex so long as there is a clear warning of its contents;
- c) The law should ban films and publications which contain explicit descriptions or illustrations of sexual acts?

	<u>(a)</u>	<u>(b)</u>	<u>(c)</u>
Strongly agree	8	7	10
Agree	41	60	32
Neither agree/ disagree	9	4	10
Disagree	29	22	38
Strongly disagree	9	4	5
Don't know	3	3	5

4. The Press

In the context of the Churchill Bill, 'The Times' and 'The Sunday People' favoured strengthening the obscenity law; 'Today' and, unsurprisingly, 'The Guardian' opposed it. It is significant that the other leading newspapers made no editorial comment on the issues raised by the Bill. 'The Times', 'News of the World' and 'The Spectator' all support the removal of the broadcasters' exemption.

Most papers reported Clare Short's Bill to outlaw pictures of page 3 girls. 'The Sun' was the only paper to surface with an editorial attacking the proposal.

ANNEX D'BIZARRE TASTES'

The National Viewers' and Listeners' Association (of which Mrs Whitehouse is the President) have drawn attention to the outcome of a prosecution brought under the Obscene Publications Act 1959 against the film 'Bizarre Tastes' as evidence, they claim, of the ineffectiveness of the Act.

2. The film depicts acts of coprophilia (the eating of human excrement). It was prosecuted in 1981 under section 2 of the Act. During the proceedings the judge had to adjourn the case and leave the court because the viewing of the film had made him physically sick.

3. The case resulted in an acquittal. We understand that the foreman handed a letter to the judge saying that the jury had had difficulty in determining who was likely to see the film. Presumably, they thought the film would have been seen only by those already attracted to coprophilia and that such people were incapable of being further depraved and corrupted by films on the subject. Accordingly, they believed that the film would not deprave and corrupt. But this sort of argument had already been scotched by the House of Lords in DPP v Whyte [1972] when they held that the proposition that readers of the books in question, being addicts of that type of material whose morals were already in a state of depravity or corruption, were incapable of being depraved and corrupted, was fallacious. The case does not therefore seem to suggest that the 1959 Act is ineffective but instead that the law was misunderstood or misapplied on this occasion.

4. Mr Mellor wrote to Mr James Bogle of NVALA (who had drawn this film to his attention) on 12 August explaining the position. (He

also noted that, under NVALA's proposed Bill to amend the Act, the film would be obscene only if it could be proved first that it contained material of a sexual or violent nature or which concerned controlled drugs and second that it could encourage similar conduct; and that it seemed that a prosecution under such a Bill would fail on one if not both counts.)

H. Attomas

OBSCURITY

10/23



*Confid
Filing*

NOTE FOR THE FILE

Judge King-Hamilton met the Prime Minister on 15 September to discuss obscenity legislation and to ensure that it also covered the BBC and IBA. He proposed a small drafting committee consisting of a Judge (he suggested Henry Pownall), a QC (Stephen Mitchell), a representative of the DPP and a Parliamentary Draftsman - all to be under an unspecified Chairman and with the power to co-opt. Copies of his proposal and draft legislation are attached to this note.

The Prime Minister thought the idea worth considering but was of the view that the Judge must be Chairman.

h/1

She agreed to think about it - prior to a meeting of Ministers now arranged for 1 October.

PAB

P.A. BEARPARK

16 September 1986

B
103 X

NOTE RE OBSCENE PUBLICATIONS ACT 1959

1. It is generally accepted that the Act is unworkable. This view is not only held by lawyers,¹ but also by Scotland Yard.² And, I suspect, also by publishers, distributors and retailers of pornography.
2. In the circumstances, it is not surprising, and commonly accepted, that violence and pornography are continually increasing and getting worse, i.e. portrayals of violence are more and more horrendous and nauseating, and obscenity more extreme, explicit and filthy.
3. Nor is it surprising that, in the last few years, there has been an increase in the number and severity of assaults on children (up by 90 per cent according to the N.S.P.C.C.). In the opinion of the police, the link between this increase and that in obtainable and visible pornography is no mere coincidence.

Footnotes:

1. See, e.g. R. v. Met. Police Commissioner, ex parte Blackburn, (reported in The Times, 7 March 1980).
Lord Denning: "The test of obscenity in the Act ... was difficult to apply ... the fault lay with the wording."
Lawton, L.J.: "No branch of the criminal law presented more difficulty for police officers ... in trying to apply the law ... they require all the help they can get."
Ackner, L.J.: "The Act, with its test of obscenity, made it difficult to prognosticate the result of prosecution."
2. Information from Scotland Yard, June 1986:
"The great difficulty ... has been the various decisions by the courts as to what is obscene."

4. It is submitted that the solution to this problem is either to amend the present Act or to replace it with a new one. To this end, I venture to suggest the setting up of a small drafting committee comprising a Judge (I suggest H.H. Judge Pownall, Q.C.), a Queen's Counsel (Stephen Mitchell, Q.C.), a representative of the D.P.P., and a Parliamentary draftsman. And, of course, a Chairman. It should have power to co-opt (e.g. Lord Denning).

A. King-Hamilton

Handed to PM 15/9/86

PROPOSED BILL TO AMEND OBSCENE PUBLICATIONS ACT 1959

1. Section 1 of the Obscene Publications Act, 1959, is hereby repealed and replaced by the following provisions:-
2. For the purpose of this Act, any publications, whether written, printed, audible or visual, shall be deemed to be obscene if -
 - (i)(a) it contains any material of a sexual nature which, in the opinion of a jury, is grossly indecent or lewd or
 - (b) portrays degradation, or unrestrained cruelty or violence, or
 - (c) contains any material concerning any controlled drug; and which
 - (ii) is so presented or depicted that it could encourage similar acts or conduct or drug experimentation or abuse.
3. Without prejudice to the generality of Section 2(i) above, where it is apparent that the publication is intended for or sold or otherwise supplied to children or young persons, it shall be deemed to be obscene if it contains any material of the nature set out in Section 2 above.
4. In considering whether the material in question is obscene within the meaning of clause 2 above, the jury shall have regard to whether it, or any part of it, was an essential ingredient of the narrative which could not otherwise be suggested or left to the imagination of the reader, listener or viewer. The onus of establishing to the satisfaction of a jury, that it is so essential is on the defence.
5. In a trial by jury for an offence under this Act, the right to challenge shall only be exercised for good cause.
(The repeal of whole of Section 1 ensures that the content of television and sound broadcasting is no longer exempt from the Obscene Publications Act).

PRIME MINISTER

OBSCENITY LEGISLATION

You wanted to meet Judge King Hamilton to discuss the law on obscenity. You may like to glance at the recent correspondence with him (Flag A). A note of your recent meeting with the Home Secretary is at Flag B. Just in case you want to glance at the Home Office brief setting out their current position I have attached this at Flag C.

A meeting of Ministers has been arranged for Thursday
25 September.

ASB

ANDY BEARPARK

12 September 1986

VSCAAW

Back 5/5.30 wing

MR. BEARPARK ✓

G.R.

Obscenity Legislation

no success (I have had difficulty in contacting Judge King-Hamilton but will try again obviously before I leave at lunchtime tomorrow (Friday). We have got to fit him in some time in the week beginning Monday 15 September and I have allocated 1730 on that day. Alternatively, we could offer him Friday 19, at 1000. But Mark also asked me to set up a meeting of Ministers for the following week and this I have done at 1500 on Thursday, 25 September.

CR.

09276 7711

* confirmed.

(CAROLINE RYDER)

4 September 1986

ARKH 99
Honda Accord
Metallic
Dark Blue

SRW

4 September 1986

I have tried to contact you on the telephone as the Prime Minister would very much like to have a short meeting with you to discuss Obscenity legislation. As I am on holiday next week I wonder if you could make contact with my colleague, Andy Bearpark on 01-930 4433, to arrange a mutually convenient date. BFI What I had in mind was Monday 15 September at 1730 but if this is not convenient, I am sure Mr. Bearpark will be able to offer ~~you~~ an alternative slot.

(CAROLINE RYDER)

His Honour Judge King-Hamilton, Q.C.

SRW

CONFIDENTIAL



A *eg/B/UP*
ccsbhp
file VC X
cc S. Shebourne

Subject cc Master

10 DOWNING STREET

From the Private Secretary

1 September 1986

Dear Clare

The Prime Minister and the Home Secretary discussed yesterday the law on obscenity.

The Prime Minister said she was concerned that the existing legislation was not effective. The letters she received from Mrs Mary Whitehouse and Judge King-Hamilton reflected a growing public anxiety that the law as it stood was unable to stop obscene material being made available to the public. Furthermore, the public would react favourably if the Government were to be seen to try and tackle the lowering of standards in the media generally. A distinction had to be drawn between freedom and licence. It was a difficult boundary to define. But the Government had so far failed to take the necessary steps to get it right, and had to be seen now to try and do so. The Prime Minister suggested that one way forward might be to impose a test that material should not offend against good taste and decency in addition to the "deprave and corrupt" test in the Obscene Publications Act.

The Home Secretary said he was sympathetic to the Prime Minister's concern. The difficulty was in finding a new legal formulation which would be both effective in catching the material the Government wished to catch, but no more, and which was acceptable to the public and to the House. So far, nothing satisfying those conditions had been proposed. The Churchill Bill showed how great the difficulties were. The Home Secretary hoped that, once the Peacock Report had been considered, it would be possible to remove the broadcasting authorities' exemption from the obscenity legislation. Their position was now quite illogical, particularly in view of the prospective development of many more TV channels in the future. The Home Secretary noted the Prime Minister's proposal for an additional "decency" test but he doubted whether that would encourage juries to convict any more than they did at present.

Summing up the discussion, the Prime Minister said she would arrange an early meeting with Judge King-Hamilton to discuss more fully his ideas for reforming the law. She would not arrange to see Mrs Whitehouse yet. The Prime Minister would also chair a Ministerial meeting to discuss possible ways in which the legislation could be tightened up, with a

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view to a suitable Member being approached if one was successful in the ballot for Private Members' Bills. One particular proposal to consider was increasing the protection afforded to children. The Home Secretary would also consider the responsibilities and powers he himself had in relation to the legislation, particularly so far as the IBA and BBC were concerned.

I am copying this letter to Joan MacNaughton (Lord President's Office), Michael Saunders (Law Officers' Department) Timothy Walker (Department of Trade and Industry) and Michael Stark (Cabinet Office).

Yer

Mark Addison

MARK ADDISON

Ms Clare Pelham,
Home Office.

NEA:



10 DOWNING STREET

I agree that the PM should not

see Mr. Frank, Mrs. Wickham. She has this letter as background to her reply to

I hope all this will have died

down by the time Pöhlent

resumes.

Mr. Frank.

new 1.9

Order de enquiries by

undoubtedly by the H/Sec 1

doubt if there is any need for

the PM to see Mr. Frank, and

would that might strike things

up again.

NEA 1/9

LOS ANGELES

PRIME MINISTER

Mrs. Mary Whitehouse wrote to you on 21 July, saying she was unhappy with the meeting she and her colleagues had had with the Home Secretary and Mr. Mellor, and that she would like to discuss her concerns with you personally. (Her letter is at Flag A). You agreed to do so, though we have not yet fixed a firm date for the meeting. Before you meet Mrs. Whitehouse, you wished to have an opportunity to discuss obscenity legislation, and the Home Office's position, with the Home Secretary.

You have in fact already had a brief word with Douglas Hurd about the Mary Whitehouse letter, and he subsequently wrote to you, arguing that it gave a misleading account of the meeting (Flag B).

The Home Office have provided a brief setting out their current position (at Flag C). This deals with the following points:

- the law at present and its shortcomings;
- the Home Office's assessment of whether, and if so how and when, the shortcomings can be remedied;
- Mrs. Whitehouse's views and proposals and the Home Office's response to them.

You may also like to have to hand at the meeting recent correspondence with Judge King Hamilton (Flag D).

You will also wish to discuss with the Home Secretary whether or not he should attend the meeting with Mrs. Whitehouse.

MAA

Mark Addison

29 August 1986

JA2ADN

From: THE PRIVATE SECRETARY

ce Highgate



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

26 August 1986

Dear Mark,

*I take it you would like
to attend Medley's week?
Or are you not
really here? MSA 28/8*

You asked for a note on obscenity, including broadcasting, before the Prime Minister's meeting with the Home Secretary on 1 September to prepare for a meeting with Mrs Whitehouse.

... I attach a note which the Home Secretary has approved as an agenda for the discussion. It does not go into the question of Conservative Party policy at the next election, but the Home Secretary is, of course, ready to discuss this.

*yours
Clare*

MS C PELHAM

Mark Addison, Esq.

OBSCENITY

PRESENT LAW

The Obscene Publications Act 1959 makes it an offence to supply an obscene article; an article is defined as obscene if its effect is such as to tend to deprave and corrupt those who are likely to read, see or hear it. A magistrates' court can, without convicting anyone, order the forfeiture of articles which it considers obscene in this sense.

2. There are a number of other statutes dealing with particular areas of concern including

- (a) sending indecent or obscene material through the post (the Post Office Act 1953);
- (b) indecent displays (the Indecent Displays (Control) Act 1981);
- (c) licensing of sex shops (Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982);
- (d) video recordings (the Video Recordings Act 1984);
- (e) obscene telephone calls (the Telecommunications Act 1984).
- (f) bogus cinema clubs (Cinemas Act 1985).

In addition, Customs legislation (the Customs Consolidation Act 1876) prohibits the importation of indecent or obscene material.

3. The BBC and IBA are not subject to the Obscene Publications Act. There is, however, a statutory obligation on the IBA and the Welsh Fourth Channel Authority to satisfy themselves that nothing is included in programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling; and they must draw up codes of guidance on violence and other matters with special regard to programmes broadcast when large numbers of children may be in the

audience. The BBC recognizes the same obligations in an Annex to its Licence and Agreement, and draws up similar guidelines for programme-makers. Cable operators are under the same obligations as the BBC and IBA regarding good taste and decency, but are also (since actual programme content is not supervised by the Cable Authority) subject to the Obscene Publications Acts.

4. Cinema films are ~~not~~ subject to the Obscene Publications Acts but *also* have to be licensed for exhibition by local authorities, who usually adopt the recommendations of the British Board of Film Classification.

SHORTCOMINGS OF THE LAW

5. Whether the obscenity law draws the boundaries at the right point, and how serious are the consequences if it does not, are matters of opinion. Plainly, however, the present law has the following defects:

- (i) The 'deprave and corrupt' test is not ideal. It derives from a judicial decision given in 1868 and is difficult for juries to apply literally.
- (ii) The law on obscenity and indecenty is scattered over a range of statutes, some of which give different definitions to the same words and accordingly set different standards for different purposes. For example, "obscene" in the Customs Consolidation Act has its ordinary dictionary meaning. The European Court, however, decided earlier this year that any stricter test applied to imported as opposed to domestic articles amounted to a restriction on trade contrary to the Treaty of Rome.
- (iii) Juries' verdicts tend to differ from magistrates' decisions and, in respect of the same material, from each other. Thus both publishers and retailers and the prosecuting authorities can find that they do not know where they stand.

6. The broadcasters are felt by many people to be above the law; no redress, except an apology is available to those offended; and no-one except the broadcasters themselves has any direct say.

ASSESSMENT

7. Effort has in recent years been concentrated on making specific progress in areas where a consensus can be achieved and a clear remedy is available. For example, the application of the Video Recordings Act from 1 September to most video works not previously registered for exhibition as films means that the "video nasty" is now subject to a control, by way of pre-publication censorship and classification, more precise and less capricious than the Obscene Publications Act.

8. Any general re-opening of the scope of the Obscene Publications Act is much more difficult and there is no current plan to do so, although various possibilities have been considered. The difficulties lie in deciding how and how far the boundaries ought to be moved; in drafting something that will actually induce juries to deliver the desired results; in finding a reasonable measure of consensus; and, as shown by the fate of Mr Churchill's Bill, in getting enough Members of Parliament to take the matter seriously.

9. The most comprehensive available analysis of the present law, and blueprint for new legislation, were offered by the Williams Committee (1979). Their recommendations were clear and rational, but would in some respects represent a contraction rather than an expansion of the scope of the law. The only material which Williams would have banned altogether was material the production of which involved the sexual exploitation of children or in the production of which actual physical harm was inflicted. Other offensive material would be restricted to places which children could not enter and to the post, but anyone who wanted it would be able to get it. There would (explicitly) be no control whatever over the written word. It has not been thought that these proposals are ones which the Government would wish to commend to Parliament.

10. An alternative to the Williams Approach would be to replace the deprave and corrupt test by another formula of general application. For example, the word "obscene" in the 1959 Act could be left to take its ordinary dictionary meaning, or obscene material could be redefined (along the lines of the criteria offered by Williams for mere restriction) as material the publication of which is, by reason of the manner in which it deals with violence, sexual matters etc, offensive to reasonable people. This would meet some of the narrow objections to the deprave and corrupt test, in that it would reduce the task of the jury to the much simpler and more explicit one of deciding what was beyond the pale and what was not; but it would be weak on two fronts. First (and this is a point which even some of Mrs Whitehouse's supporters have raised), it would mean forfeiting any claim that the law has any regard to the harm done by pornography, except in the very limited sense that anything that is offensive is ipso facto harmful. Secondly (and paradoxically), such a change would probably amount to little more than ratification of what juries already do, and have been to some extent encouraged by the courts to do, with the 'deprave and corrupt' test. Whether it would produce any noticeable change in what juries find obscene is thus far from certain (there is of course some material - eg advocacy of drug-taking - which depraves and corrupts but which does not easily come within any new definition of the kind discussed here).

11. The overall position on obscenity generally is thus that there is no proposal to hand which satisfies the following tests:-

- (i) goes in the direction in which the Government would want to go;
- (ii) is of clear effect; and
- (iii) is likely to be generally acceptable.

12. The Government took a neutral position on whether the Obscene

Publications Act should, as Mr Churchill proposed, be applied to the BBC and IBA, while pointing out that the 'good taste and decency' requirements are much stronger than any restrictions imposed by the Acts. The important issues relating to broadcasting are how strictly and well the broadcasters' own guidelines are applied and what the effects are of the "drip, drip" of material which, while a world away from obscenity in any sense which the criminal law could reasonably attack, portrays violence, and unpleasant language and behaviour, to a degree which causes disquiet. The fact has to be faced, however, that the programmes which spring most readily to mind here are among the most popular on television and that, short of a revolution in the arrangements for broadcasting, there are strict limits to what the Government can do. The Home Office will maintain a dialogue with the broadcasters; encourage them to take full account of responsible opinion, respond constructively to the criticisms levelled against them, and give out better information about, for example, the times when programmes might be unsuitable for children; and to encourage responsible research. The Home Secretary is ready again to take a personal part in this, as he did before Christmas.

MRS WHITEHOUSE'S VIEWS AND PROPOSALS

13. Mrs Whitehouse attacks the present law and arrangements over a very broad front; it is not easy to pin her down to specific propositions or proposals or to identify, even in principle, any particular line of advance which would go any reasonable distance towards satisfying the generality of her concerns. It is, however, clear that she believes that too much of what she would regard as fit for prohibition gets past juries; that this is to some extent, at least, because they are bamboozled by technicalities and over-clever defences; that the authorities do not take seriously enough the need to enforce the law; and that the broadcasters should be brought under a degree of control.

14. On the general law of obscenity, Mrs Whitehouse previously favoured the list approach, whereby the sort of material which she would like to see banned would be identified explicitly in the statute; but she has now finally moved off this. Her current proposal

is that the deprave and corrupt test should be replaced by a new test under which it would be necessary to prove that

- (a) the article concerned sex, violence or drugs; and
- (b) was so presented or depicted as to encourage similar acts or conduct or drug experimentation or abuse.

15. Mrs Whitehouse wants Government legislation, not a Private Member's Bill (the 1959 Act arose from a Private Member's Bill, and the law in this area has traditionally been amended by Private Members' legislation).

16. On broadcasting, Mrs Whitehouse would like to see the BBC and ITA made subject to the Obscene Publications Acts, with opportunities for private prosecution. She takes the point that the prospects of conviction under present law are remote, but presumably hopes that extensions of the scope of the Acts would eventually catch up with what is actually shown. Pressure for prosecution would in any event bring publicity, and put the DPP and the Government into a more exposed position. Unlike other members of her organisation, Mrs Whitehouse does not advocate direct Government responsibility for changing programme standards. She has, however, recently proposed that the remit of the Broadcasting Complaints Commission (at present limited to complaints of unfairness or invasion of privacy) should be extended to include taste and decency. She would also like to see an annual debate on broadcasting in Parliament.

17. Mrs Whitehouse wants Customs to go on seizing material which is merely indecent, or obscene only in the dictionary sense, notwithstanding the EC decision.

VIEWS ON MRS WHITEHOUSE'S PROPOSED SOLUTIONS

18. The Home Office, like the Williams Committee, has always considered the list approach to obscenity to be fundamentally unsound,

despite its superficial offer of greater certainty. This view is reinforced by the experience of Mr Churchill's Bill: his opening proposal, with its list, dissolved at a touch.

19. The Home Secretary's views on Mrs Whitehouse's current proposals for a new obscenity test were reflected in the advice offered on Mr King-Hamilton's letter of 17 June and in the Prime Minister's reply to it of 24 July. The key point is that the proposal would confine obscenity law to material which encouraged "similar acts". As Home Office Ministers have repeatedly explained to Mrs Whitehouse, this would weaken the law because it would be more difficult to prove beyond reasonable doubt that material, even of the most appalling character, would encourage repetition than that it had a tendency to deprave and corrupt. Mrs Whitehouse is apt to treat a point of this kind as a mere difficulty of drafting; but it is in fact one which goes to the heart of the proposal. Mrs Whitehouse's current proposal therefore fails, by a long chalk, the test of offering a definite improvement on the present law.

20. As to imported material, we are bound to comply with the EC ruling. It is admittedly unsatisfactory that, accordingly, Customs should now have to operate their legislation as if it meant something different from what it says. Mr Chris Smith MP obtained leave in July to introduce a Bill to amend Customs legislation and the Obscene Publications Act. This will be considered in due course in the normal way. Following discussion with the Home Office, Lord Nugent of Guildford is considering the introduction of a Private Peer's Bill which would, in principle, bring within the scope of the Obscene Publications Act articles of the kind at issue in the EC case, although he is beginning to appreciate the technical difficulties of doing so.

21. As to broadcasting, extending the Obscene Publications Act to the BBC and IBA is something that could be contemplated, as on Mr Churchill's Bill. The exemption is not logical, though broadcasters are attracted to it. But it is far from clear that removing the exemption would have much practical effect. The Annan Committee firmly rejected the idea of extending the powers of the Broadcasting Complaints Commission.

There is no shortage of Parliamentary interest in broadcasting matters, although much of it is unsupportive of Mrs Whitehouse's views, and no strong case for institutionalising debate on an annual basis.

Summary and Conclusion

22. There have in recent years been a number of measures which, while relatively modest in their scope, have both attracted widespread Parliamentary and public support and effected real improvements (sex shops, indecent displays, bogus cinema clubs, video recordings). But Mr Churchill's Bill, dealing with the Obscene Publications Acts, failed to attract the 100 Members necessary to force the closure.

23. Mrs Whitehouse pins too much on reform of the Obscene Publications Act, overestimates the possibility of finding amendments that will make real improvements and under-estimates the need, even for a Government measure, to secure reasonable consensus.

24. At present there are no proposals available which either make definite improvements (at least to the Government's and Mrs Whitehouse's way of thinking) or would be generally acceptable. It is of the essence of any law of this kind, relying on juries to pass judgement retrospectively on matters which include ones of taste, that it is incapable of fine-tuning; and any attempt at a really significant shift in the coverage of the law (eg. by making it an offence to publish an article which was merely indecent) would throw up a maelstrom of difficulties and differing opinions.

25. In any event, many of the matters which concern Mrs Whitehouse and others, such as bad language and the treatment of social issues, are simply incapable of being addressed by the criminal law.

26. In their dealings with Mrs Whitehouse Ministers have never ruled out reform of the Obscene Publications Act. The approach of Home Office Ministers has been to

receive her with sympathy, encourage her to engage in realistic dialogue on the real problems involved in any change in the law and consider any concrete proposal which she makes. Mrs Whitehouse tends to interpret this as meaning that Ministers are not interested, and continues to believe that the problems are merely ones of effort rather than of concepts, principles and politics. Unless and until the Government is confident that good proposals are available for general reform, in addition to the practical progress made on narrower fronts, it would be dangerous to encourage her in this belief.

CROXLEY
DUPLICATOR

Home Office

August 1986

H. AFFAIRS

OBSCURITY

10/83

GROKLEY
DUPLICATOR

1. CR pl copy from Mary
Whitehouse file.

MR. ADDISON

2 CR - to label.

I attach the latest letters in from
Judge King Hamilton. I have acknowledge
so no further action required except
for you to file. I would suggest a copy
also goes on the Mary Whitehouse file.

SH

STEPHEN SHERBOURNE

26.8.86

CABLE: AERIAL, LONDON, W.I.
TELEGRAMS: AERIAL, LONDON, W.I.
TELEPHONE: 01-499 3456

PATRON:
HER MAJESTY THE QUEEN.



128, PICCADILLY,

LONDON, W1V 0PY.

5th Aug, '86

as from 3, Darnhill,
Watford Road,
Redlett.

Dear Derek Howl,

As arranged, when we spoke on the phone just before you went away, I now enclose the two letters for the Prime Minister.

I understand you have arranged for them to be delivered to her when she leaves hospital. I hope you will have a most enjoyable holiday.

Kind regards,

Sincerely,

Alan King Hamilton



10 DOWNING STREET

LONDON SW1A 2AA

26th August, 1986

Dear Judge King Hamilton

I am writing to acknowledge your letter of 5th August to the Prime Minister. Mrs. Thatcher was most grateful to you for writing in the way you did and for keeping her informed about the Mary Whitehouse Research and Education Trust. She was also grateful to you for your good wishes following her operation.

I hope you will understand why I am writing in reply but the Prime Minister cannot at present sign letters personally as she would wish.

Yours sincerely

Stephen Sherbourne

STEPHEN SHERBOURNE
Political Secretary

His Honour Judge King Hamilton QC

Personal

1. Prime Minister to see for info
2. I have announced.

Figures

3, Darnhills,
Watford Road,
Radlett,
Herts WD7 8LQ

5th August, 1936.

Dear Prime Minister,

Many thanks for your two letters of 24th July. I was much touched by the kind remarks in the Personal letter. You may be assured that we are not discouraged, by the attitude of the Home Office, in our efforts to seek a change in the climate of opinion on the law of obscenity.

On the contrary, and in furtherance of our objectives, a few months ago we set up the Mary Whitehouse Research and Education Trust and I was greatly honoured at being asked to become its first Chairman. Amongst its members are the Rt. Rev. Maurice Wood (former Bishop of Norwich) and Professor Malcolm Waldron (of Surrey University).

The object of the Trust is to seek to inform and educate listeners, viewers and readers, individually and in groups, about the effects of radio and television, including cable and satellite broadcasting, particular attention being paid to violence, obscenity, foul language, blasphemy and other matters.

It is hoped to achieve this by means of talks, papers, seminars and conferences in schools, colleges and other places of higher education.

The Trust has been established by a Deed and we now await formal approval by the Charity Commissioners. Until that arrives, hopefully in the very near future, we are not making public the existence of the Trust and I am sure you will therefore regard the matter as confidential for the time being.

I hope you won't mind my taking up some of the points raised in your "official" reply, and this I am doing in another letter under separate cover.

My wife and I, and the girls, were so very sorry to hear that you are soon to have an operation on your hand, and we send our best wishes for a speedy and successful recovery.

With every good wish and
warm personal regards,

Sincerely
Alan King Hamilton

P.S. The enforced rest in hospital -
which you have earned - will do
you a power of good. A blessing
in disguise? A.K.H.

3, Darnhills,
Watford Road,
Radlett,
Herts WD7 3QL

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Dear Prime Minister,

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Obscenity Law. In your third paragraph it is asserted that Clause 2 of our Bill provides that "material is obscene only if it could encourage similar acts". (The emphasis is mine). This is not strictly accurate. In addition to the possibility (which is all that "could" connotes - not, I submit, requiring the much higher standard of proof envisaged by "would") the Clause also makes it necessary for the material to be adjudged obscene "by a reasonable adult" when first read, heard or seen. With the hoped for abolition of peremptory challenges, it is more probable that future juries will comprise a majority of "reasonable adults".

Moreover, in Clause 3 of our Bill, the onus is quite deliberately placed on the defendant to establish that the material in question "was an essential ingredient of the narrative which could not otherwise be suggested or left to the imagination of the reader, listener, or viewer".

As presently drafted, this Clause is merely guidance. On further reflection, I think the Bill would be strengthened by making the essence of the Clause one of the statutory tests of obscenity. With an Act containing Sections such as those drafted in this Bill, I would much prefer to prosecute than defend!

I accept that pornographers - and their counsel - would argue that any offensive passages or scenes were essential to the story line, but that argument would be far less likely to succeed (when the prosecution was justified) than defence arguments under the present Act to the effect that the material did not "tend to deprave and corrupt etc". I know under which legislation I would prefer to defend, were I still at the Bar.

For these amongst other reasons I do not share the view of the Home Secretary and David Mellor that our Bill weakens the existing law. On the contrary, and as a judge who has tried such cases, I make so bold as to think that our tests of obscenity would be much more easily understood and applied by jurors and therefore they strengthen the law. If able and experienced counsel appear for the Crown and the judge gives a clear and helpful direction to a jury of reasonable adults (and, in future, more such juries can be expected) it is my firm belief that a conviction will be a much more likely result than an acquittal in an appropriate case conducted by or with the consent of the D.P.P.

If I may say so, our anxiety is that even though it is generally accepted that the present Act is unsatisfactory in several respects, the Home Office does not produce anything to take its place and yet obstructs our efforts to remedy the present defects. It is very frustrating.

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I realise of course that December is a time of colds, influenza etc. I have no statistics, other than in my own family, as to which ailments present the greater problem. With us, as I'm sure with a very large number of others, it is hay fever.

I have told my daughter Jane of your kind suggestion that the school might approach the relevant board and she is most grateful.

Income Tax I had forgotten what was the full effect, on Income Tax, of the last Budget. I entirely agree that what you have pointed out is in line with what I had in mind.

However, it is the catch phrases which linger in the public memory, e.g. to the effect that it is a "rich man's budget" or it "helps the rich more than the poor". I expect that whatever is in the next budget, it will be distorted by opposition politicians and Press. But if there is a cut in Income Tax and it is limited to, say, the first £20,000 p.a. then it must be clear to the meanest intelligence, and incapable of distortion to the contrary, that the cut helps the poor more than the rich. I hope I would take the same view if my income were in the top bracket!

We are all sorry to know that you are to have an operation on your hand, and wish for you a speedy and successful result. Unless you have taught yourself to be ambidextrous, you won't be able to sign anything for a time. So this letter does not expect even to be in the queue awaiting replies!

*With every good wish,
yours sincerely
Alan King Hamilton*



Durrands.

10 DOWNING STREET

30th June, 1986

Dear Professor Durrands,

Thank you for your letter to the Prime Minister of 22nd June.

The Prime Minister has asked me to acknowledge your letter on her behalf and to let you know that you will be receiving a full reply as soon as possible.

Yours sincerely
Michael Alison

MICHAEL ALISON

Professor K J Durrands



10 DOWNING STREET

30th June, 1986

Dear Kenneth,

The Prime Minister has received the attached self-explanatory letter from Professor K J Durrands.

The matter raised by Professor Durrands seems to be a particularly sensitive one as it appears to give concern to so many Conservatives. The Professor is known to the Prime Minister and has helped and supported her in the past.

I should be most grateful if a draft response for the Prime Minister to sign could be prepared with great care and with regard to the substantive case about which Professor Durrands is so exercised.

Yours ever
Michael

MICHAEL ALISON

The Rt Hon Kenneth Baker MP

KNHTFON (047 662) 245
Grantham 870245

CHURCH COTTAGE
CROXTON KERRIAL
GRANTHAM
LINCOLNSHIRE

The Rt Hon Mrs Margaret Thatcher MP
Prime Minister
10 Downing Street
LONDON SW1

3 June 1983

Dear Prime Minister,

I have become increasingly concerned during your term of office about the attitudes and policies of the DES, and I am sorry to say I have serious reservations about their conduct.

My two major concerns are -

1. The DES Higher Education policies and plans to cope with the necessary restricted expenditure and their implementation through the National Advisory Body, and in particular their effect on the work of the Polytechnics.

Perhaps understandably, as Polytechnics have developed over the last 10 to 15 years, sometimes from relatively humble origins, to become quite large Institutions, of some standing, problems of their control, finance and management, and the locus of authority over them, have become live and even contentious issues. It is notorious that the system within which they have to work is extremely complex. Depending on, for instance, the interpretation put on Instruments and Articles of Government by the maintaining Local Authority, the system varies from one Polytechnic to another.

The creation of the National Advisory Body has further complicated the system which I have referred to as one which produces the maximum gain in entropy.

/.....

The Rt Hon. Mrs Margaret Thatcher

2.

I have established a theme of synthesis in my Institution and directed it towards designing, making and selling. Regrettably, synthesis has not yet achieved the same status as analytical scholarship and I fear that in spite of the country's difficulties, the support for vocational education of the kind I have mentioned does not seem to be genuine. There is perhaps a fear of technology in some influential quarters coupled with the view that engineers, technologists and scientists are not really educated!

2. The attitude of the DES towards the dispute between Huddersfield Polytechnic and Kirklees Metropolitan Council, which started in July 1978 and became public in January 1980.

I am deeply disturbed by the lack of understanding of the DES and their reluctance to respond even given the massive amount of evidence of the wrongful acts of the Local Authority.

The foundations of the Polytechnic were laid with your support and that of the Huddersfield Borough Council. In the days of Huddersfield Borough Council the Polytechnic worked with the Local Authority in an atmosphere of trust and mutual support. Under the Kirklees Authority which was formed in 1974, the situation has changed to one of mutual distrust and total political control of the Institution.

/....

The Polytechnic has been dragged into and around a political arena so that its integrity is in jeopardy and the interference by the Local Authority and the actions taken against staff have effectively destroyed the traditional environment which should be enjoyed by an Institution of Higher Learning. The actions taken against one senior member of staff (constructively dismissed) resulted in the findings of an Industrial Tribunal referring to the member of staff's "tormentors" and the "reprehensible behaviour of his employers".

In discussions with the Leader of the Kirklees Socialist Council and his Chairman of Education, who is also Chairman of the Polytechnic Governing Council, they have implied that senior Local Authority officers and heads of Institutions of Education should share their political views, and furthermore they have implied also that the curriculum should be politically controlled.

A long time ago, and before the senior member of staff was constructively dismissed, a group of staff asked the DES to take action under Section 68 of the 1944 Education Act. The DES have taken no action, and the position of the Institution continues to deteriorate from the high position it held at the beginning of 1980.

Unfortunately, the DES have added to the Institution's burden by, for example, stopping the honours degree in school teacher education and training which was directed towards introducing technology into the schools.

/....

The Rt Hon. Mrs Margaret Thatcher MP

4.

For this and other reasons which I will not set down, a number of us are beginning to think that the DES solution to the overall serious problem is to allow the Institution to wither on the vine. If this is the case the Institution, through no fault of its own other than rapid and successful development, must suffer for the behaviour of its maintaining Authority.

In the circumstances, I would welcome the opportunity to speak to you personally on these matters.

Yours sincerely,

Ken Durrands

K J Durrands



DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE YORK ROAD LONDON SE1 7PH

TELEPHONE 01-934 9000

FROM THE SECRETARY OF STATE

Councillor John Holt
Kirklees Metropolitan Council
Members' Services
Town Hall
Ramsden Street
Huddersfield
WEST YORKSHIRE
HD1 2TA

SA June 1986

Dear Councillor Holt

On sorting through some papers left by Sir Keith Joseph when he departed from DES I find that due to an oversight he had not replied to your letter of 4 April. I am sure that he would have wanted me to apologise to you for this.

You asked Sir Keith to send one of his advisers to Huddersfield so that you might explain to him the importance of the Polytechnic's architecture course. In fact, the relevant Departmental officials met representatives of the Polytechnic in January to ensure that their case had been fully made and was understood. The evidence which the Polytechnic representatives put forward, including corrections and clarifications of the evidence available to the Architecture Intakes Working Party, and subsequently the National Advisory Body (NAB) Board and Committee formed part of the considerations which Sir Keith subsequently undertook and which led to his provisional conclusion that there should be no intake to Huddersfield Polytechnic's Part I architecture course in 1986.

Further a deputation representing the Polytechnic and the LEA met Sir Keith, as did a group of local MPs. All of the information from these sources will be put before the new Secretary of State who will therefore be in a position fully to appreciate the Polytechnic's case. Whilst he recognises the strength of your feelings in this matter, Mr Baker can see little to be

Cont../..

gained in terms of a further clarification of the Polytechnic's position from a visit by one of his advisers.

Yours sincerely
Shirley Trundle

MRS S J TRUNDLE
Private Secretary

Please reply to #:

Tel. No. Office: 0484 536471
* Home: 0924 848521

28A Church Street
Emley
HUDDERSFIELD HD8 9RW

Church Cottage
Croxtan Kerrial
Mr Grantham
Lincs.

22 June 1986

PERSONAL, PRIVATE AND CONFIDENTIAL

The Rt Hon Mrs Margaret Thatcher MP
Prime Minister
10 Downing Street
LONDON SW1

Dear Prime Minister

1. This is the third letter I have written to you during your term of office. The first letter was to draw your attention to the upward effect of the 16 year old demographic curve on unemployment. I sent it on 3 June 1983 and hoped it would help you with the last television interview you gave before the election. As it happens I understand from Conservative friends you used the argument some months after you were returned to office. The second letter, also sent on 3 June 1983, was to express my serious concern about the attitudes and policies of the DES and my serious reservations about their conduct in the five year dispute between my Polytechnic and the Local Authority. Although I felt my criticisms of the DES were justified and should be conveyed to you, I was apprehensive at the time about setting them down in case they inadvertently reached the Department and caused further damage in the future to the Polytechnic.
2. I have enclosed a copy of this letter as while our dispute with the Local Authority is now largely over and we are endeavouring to repair the damage, the problems I have mentioned in it have become more widespread in the public sector and the situation generally, as expected, has deteriorated.
3. In the last few days the new Secretary of State for Education and Science, much to our surprise, has confirmed a proposal put forward by DES officials to close down our BA Honours Degree in Architecture. I did not intend to write to you about this decision, which has been reached using highly questionable procedures and flawed evidence, but I have been prevailed upon to do so by leading

members of the Conservative Party in our region. They suggested also that I should write the letter over the week-end and give it to Councillor John Holt on Monday to deliver to you by hand, and enclose a letter to Councillor Holt from the DES which, in the circumstances, they find most amazing.

4. I will not bore you with the details, beyond saying that those who know them are appalled and disillusioned by the whole affair which has been going on for over a year. Our case has been fully supported by members of all parties and very strongly supported by members of the Conservative Party, including Conservative MPs in the region. The details are fairly well known by my students and particularly by the Young Conservative students, who in the words of their Chairman, are "totally disillusioned" and they are extremely angry with Sir Keith and Mr Baker. I tried to soften the blow for the students by mentioning in my speech to graduating students that Ministers, and therefore Governments, are very dependent upon the advice they receive from their officials, and regrettably over the years the Polytechnics had found themselves having to question more and more the advice being given to the Secretary of State for Education and Science and his Ministers.
5. We feel that our course was earmarked for closure before the doubtful procedures were put in motion and the flawed evidence presented leading to the recommendation to close the course, and I regret to say that Her Majesty's Inspectors are involved. The officials have found it necessary as the battle has proceeded to continually change their ground. The criterion of quality was withdrawn as the officials became embarrassed when it was realised that the degree course at another school of architecture in the region was only an ordinary degree and, following this, the nearest architecture school to Huddersfield had its honours degree downgraded by the CNAAB to an ordinary degree. This latter embarrassment has caused some swift pressure to be brought to bear behind the scenes to restore the honours degree.
6. It is, therefore, a sordid affair and as I have told the Deputy Secretary, Mr Richard Bird, and the Senior Chief Inspector, Mr Bolton, it reflects no credit on anyone involved in making the recommendation to the Secretary of State. I regret also that a better example has not been set for my students by the Department which is responsible for the imparting of knowledge and the development of attitudes and characters of our young people.
7. Unfortunately, feelings are running so high that legal advice is now being taken with the object of obtaining an injunction and a judicial review. The DES lawyers must be confident that they can prevent the matter from being fully aired in open court, otherwise I feel they would have given different advice to the Secretary of State.

8. There really is no sound and justifiable reason to close down our degree course, particularly as a general review of architecture is planned and one of our local Conservative leaders, Councillor Mrs Carter, has proposed an alternative approach to architecture education which would save money. This advice at this time seems to have been ignored and it is hard to understand why the officials in the face of the evidence and the support we have from the NAB Committee have so vigorously defended the initial recommendation and ensured it has been turned into a decision. It has certainly caused political damage in the region and I assume this is why our Conservative leaders have asked me to write to you. I hope, therefore, that the Secretary of State will be prepared to review his decision.
9. Some time ago education did not seem to have a high priority in the minds of the voters, and certainly not higher education. This position now seems to be changed and if education is to be high on the agenda at the next election, and particularly education to meet the needs of industry, then in my view the DES needs some new policies and requires firm direction and management in order for them to be genuinely and creatively carried out. If you could find the time I should be most grateful to be given the opportunity to speak to you about this matter. In February I briefly spoke to Lord Young about my concerns, and mentioned to him that the DES seem to be able to pursue policies diametrically opposite to the declared policies of Government. At his request I have recently written to him about school teacher education and training and mentioned the closure of the Architecture course.
10. It is a great privilege to have become the Education Commissioner on the Manpower Services Commission, and I would like to thank you for being given this opportunity to contribute to the work of your Government.

Kind regards.

Yours sincerely,

Ken Durrands

Professor K J Durrands

MRS. RYDER

*already done
CP
11/8.*

MRS. MARY WHITEHOUSE

Stephen says he is happy with what I proposed in my note to you the other day. So all we need do at this stage is to fix the meeting with the Home Secretary.

MIA

MEA

8 August, 1986.

B. R.

BF11 CF
11.00 - 11.30 / Sept
on Monday
Stephen says "wait".
CR.
718.

Mrs. Ryder

cc: Mr. Sherbourne

We need to fix a meeting in September with the Home Secretary when he and the Prime Minister can discuss a recent letter from Mrs. Whitehouse on the obscenity legislation. If there is a bilateral already fixed, all well and good, if not, you will have to arrange a three quarters of an hour slot.

When you speak to the Home Office would you remind them that we shall need the brief which I have already requested and discussed with Stephen Boys Smith in good time for that meeting?

We shall also need to find a slot for Mrs. Whitehouse (though whether or not the Home Secretary attends that meeting as well will not be decided until his bilateral with the Prime Minister). I think it would be better not to fix any meeting with Mrs. Whitehouse until after the bilateral has taken place, unless Stephen thinks otherwise.

MA

Mark Addison

6 August 1986

JA2ADA

Personal

A

1. Prime Minister to see for info?
2. I have announced.

Heaven

3, Darnhills,
Watford Road,
Radlett,
Herts WD7 8LQ

5th August, 1986.

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Income Tax I had forgotten what was the full effect, on Income Tax, of the last Budget. I entirely agree that what you have pointed out is in line with what I had in mind.

However, it is the catch phrases which linger in the public memory, e.g. to the effect that it is a "rich man's budget" or it "helps the rich more than the poor". I expect that whatever is in the next budget, it will be distorted by opposition politicians and Press. But if there is a cut in Income Tax and it is limited to, say, the first £20,000 p.a. then it must be clear to the meanest intelligence, and incapable of distortion to the contrary, that the cut helps the poor more than the rich. I hope I would take the same view if my income were in the top bracket!

We are all sorry to know that you are to have an operation on your hand, and wish for you a speedy and successful result. Unless you have taught yourself to be ambidextrous, you won't be able to sign anything for a time. So this letter does not expect even to be in the queue awaiting replies!

*With every good wish,
yours sincerely
Alan King Hamilton*



13

Prime Minister

at flap
Thank you for letting me see a copy of Mrs Whitehouse's letter to you of 21 July expressing disappointment at the outcome of her meeting with David Mellor and myself a fortnight earlier. I had not had an opportunity to read this letter when you raised the matter after Cabinet last week, although I knew of its existence.

I am sorry that Mrs Whitehouse has reacted in this way. Her letter to you contrasts with her letters of thanks to David Mellor and myself.

Mrs Whitehouse's account of our meeting is misleading. I suspect that I started out rather more in sympathy with her point of view than either of my immediate predecessors, but it is hard to sustain this sympathy after experience of her tactics.

I am arranging for you to receive detailed briefing on this subject. Few people are satisfied with the existing law, but experience shows how extraordinarily difficult it is to change it even in minor respects. Mrs Whitehouse underestimates these difficulties, but her own contributions do little to solve them. We shall need to consider carefully what we say on the subject in our Manifesto. Contrary to her assertions I left this point entirely open during our talk.

/You may wish

2.

You may wish to leave until we have discussed the matter a decision whether you would prefer to see Mrs Whitehouse alone or with me.

Douglas Hund.

4 August 1986

HONG KONG AFFAIRS Obscenity Regulation

Oct 83



PERSONAL



092BHN

CC SS

10 DOWNING STREET

From the Private Secretary

31 July 1986

We spoke on the telephone about Mrs. Whitehouse's letter to the Prime Minister. I am sending you a copy of this on a personal basis.

The Prime Minister has agreed to see Mrs. Whitehouse, and Caroline Ryder will be getting in touch with your Diary Secretary to arrange a mutually convenient date in the autumn. Before that meeting takes place, however, the Prime Minister would like to discuss the obscenity legislation generally with the Home Secretary, and Caroline will be getting in touch to arrange this as well.

For the latter meeting, I think it would be helpful if you would provide us with a concise brief setting out:

- (i) the law at present, in relation to both television and the rest of the media;
- (ii) its shortcomings;
- (iii) the Home Secretary's assessment of whether, and if so how and when, the shortcomings can be remedied;
- (iv) Mrs. Whitehouse's assessment of the shortcomings;
- (v) the Home Secretary's views on her proposed solutions.

Mark Addison

Stephen Boys Smith, Esq.,
Home Office.

PERSONAL

My articles - to see. Did she
come up yesterday? MGA 30/7
MFA.
No. NCU 30/7

PRIME MINISTER

2/7/86

Mary Whitehouse has written you the attached letter, following a meeting with Ministers at the Home Office on 7 July. The letter explains that she was not at all satisfied with what the Home Secretary and David Mellor told her, and she is accordingly seeking a meeting with you later in the year.

It is obviously unfortunate that Mrs. Whitehouse has come away from the meeting with the Home Secretary in such disappointment. I have had a word with Douglas Hurd's office, and they were rather surprised by this assessment. They accept of course that the Home Secretary did not give any commitment to early legislation on the introduction of a new obscenity law, but they felt the mood of the meeting, at least so far as Mrs. Whitehouse was concerned, was a reasonably friendly one. (Apparently one of the delegation of three from the NVLA was at times rather abusive during the meeting, though the others felt rather embarrassed about this).

One option would be for you to write back to Mrs. Whitehouse in a very sympathetic way responding to her request for new legislation.

Another option would be to see Mrs. Whitehouse to try and reassure her about the seriousness with which the Government treat her concerns, and to go through some of the great practical difficulties in finding workable alternatives to the existing legislation. If you do see Mrs. Whitehouse, I am sure you should do so with the Home Secretary. To do otherwise would look as if you were undermining his position.

Which option would you prefer?

I will of course see

Mark Addison

Mrs Whitehouse. But first I must

Mark Addison

28 July 1986

DG2AJB

have a meeting with the Home Office.

Judge says - Whitehouse's letters are relevant. We have been doing nothing about this subject for years. of course she is upset but

PERSONAL

CR



10 DOWNING STREET

THE PRIME MINISTER

24 July 1986

Dear Judge King-Hamilton,

Thank you so much for your letter of 17 June about obscenity law and a number of other matters. Enclosed is the "official" reply from which, as you will see, the Home Office has some doubts about whether the test of obscenity which you proposed would be effective. I just wanted you to know, however, that I do hope you will not be discouraged in seeking to change the climate of opinion on this area of law. As you know I am a great admirer of all that you do and you must carry on your pioneering work.

Very good wish

Yours sincerely

Raymond Galton

His Honour Alan King-Hamilton, Q.C.

6

PERSONAL



10 DOWNING STREET
LONDON SW1A 2AA

*M&A
for diary
meeting*

24th July, 1986

Derek Howe has passed me your letter of 21st July to the Prime Minister.

I will, of course, ensure that this letter is placed before the Prime Minister and you will receive a reply as soon as possible.

STEPHEN SHERBOURNE
Political Secretary

Mrs. Mary Whitehouse CBE

*→ White HO correspondence etc
→ cabinet 15 July 86*

NATIONAL VIEWERS' AND LISTENERS' ASSOCIATION

A

ARDLEIGH, COLCHESTER, ESSEX, CO7 7RH.

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MRS. MARY WHITEHOUSE, C.B.E.

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HON. BRANCH DEVELOPMENT OFFICER:

Mr. John R. Wilson,
18 Corstorphine Bank Terrace,
Edinburgh, EH12 8RX,
Tel: 031-334 1727

The Rt Hon Mrs. Margaret Thatcher, MP
The Prime Minister
10 Downing Street,
LONDON, SW1.

21st July, 1986

Dear Mrs Thatcher,

We have always been most grateful for and encouraged by the interest you have shown in our work over the years and I have endeavoured to keep you fully informed about what our association has been trying to do ever since you became leader of the Conservative Party.

I sent to you a copy of the paper 'Recommendations on an Amendment to the Obscene Publications Act, 1959 and to the Broadcasting Complaints Commission' we presented to the Home Secretary in preparation for our meeting with him at the Home Office on July 7th. Since then I have been much exercised in my mind as to whether or not I should write to you about what transpired on that occasion. But encouraged by the kindness you have shown on previous occasions I have now decided to do so.

We were grateful to Mr. Hurd and Mr. Mellor for giving us so much of their time but the truth is that I have never been more disappointed in any meeting with any Minister throughout the years of our campaigning, not least perhaps, because as a Conservative Home Secretary I and my colleagues had hoped for some kind of positive encouragement from Mr. Hurd. Instead of which we received a categorical "No" to our question as to whether the Government would introduce new obscenity law in the next session of Parliament and the impression was given that there was little prospect that any such legislation would appear in the next Conservative election manifesto. And this in face of the fact that the present law is proving quite incapable of controlling the type of material now available. The attached quotation from a letter from one of the delegates, James Bogle, to Mr. Mellor, and the attached press cutting does illustrate this point most strongly.

What I personally found so bitterly disappointing was that this was precisely the kind of "permissive society" Home Office response which we have come to recognise over the years and which we had hoped so much would have changed under your leadership. However

cont. . .

PATRONS:

SIR CYRIL W. BLACK, J.P., D.L., F.R.I.C.S.
LADY CHAPMAN
PROFESSOR G.N.M. COLLINS

THE MARQUIS OF DONEGALL
J. AUDREY ELLISON, B.Sc., Secretary Royal Society
of Health.
GEORGE GOYDER, C.B.E.
THE EARL OF HALSBURY, F.R.S.
THE VEN. BERTIE LEWIS, M.A. Archdeacon of Cardigan.

THE EARL OF LONGFORD, K.G., P.C.
AIR CHIEF MARSHAL SIR THEODORE McEVROY,
C.B.E., K.C.B.
LADY PRITCHARD
THE RT. REV. M. A. P. WOOD, D.S.C., M.A., R.N.R.,
Former Bishop of Norwich

I must say that I was delighted to read that you have taken personal responsibility for the Election Strategy Group and hope very much that the urgency of the situation will be reflected in its proposals.

You were good enough to spare time to discuss these matters with me when you received me in Downing Street on October 18th 1983 and I would most sincerely welcome the chance to come and talk to you again at any time and in any place at your convenience. I realise, of course, that you will be taking a well-earned holiday but perhaps when you return you may see your way clear to meeting me. I would be more grateful than I can say.

With best wishes.
Yours sincerely,

Mary Whitehouse

Mary Whitehouse
President.

Extract from a letter from Mr. James Bogle to Mr. David Mellor at the Home Office.

"You may recall you expressed surprise at my mentioning a case in the courts which involved a film showing the consumption of human excrement and that this film was subsequently found not to be obscene. You asked for "chapter and verse" on the case and I am able to provide this for you.

The case took place at Inner London Crown Court on 25th June 1981 under Section 2 of the Obscene Publications Act 1959. The accused was Mr. George Anthony de Giorgio charged with possessing obscene materials for sale for gain.

The film "Bizarre Tastes" included scenes where human excrement was consumed ("coprophilia") and the Judge, His Honour Judge Cooke, had to leave the Bench after viewing the film and adjourn the case for a brief period. It seems that this was because, as he explained, it had made him physically sick. Members of the jury were likewise very distressed.

In the end, the jury were unable to determine which members of the public would see the film and hence they could not be sure whom the film would "tend to deprave and corrupt". Thus the accused was acquitted.

The Judge did not however award him costs.

I hope this goes some way to providing you with evidence of the completely ineffectual nature of the Obscene Publications Act as currently constituted and of the pressing need to rectify this anomaly with government legislation."

D. T. 1. 19. 7. 86

80 sex arrests

A two and a half year investigation into a child sex scandal in Leeds has uncovered alleged offences involving 200 children, some as young as two. So far 80 people have been arrested, and more cases are being passed to West Yorkshire detectives. Inquiries were carried out by a hand-picked team of eight officers.

157

010



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

29 May 1986

Dear Tim

- In CIR, have we got it?

I indicated in my letter of 15 ~~March~~^{May} that, following the demise of Mr Churchill's Bill to amend the Obscene Publications Act, Mr Mellor had suggested the introduction of a No 2 Bill. This would have confined itself to the provisions on magazines and would not extend to the removal of the broadcasting exemption.

Mr Churchill has now written to say that, while he would have liked to have taken forward this suggestion, it was clear from his surroundings that even a Bill confined to magazines would attract opposition. Since a No 2 Bill would need to go through all its Commons stages on the nod, he has concluded that it would not be possible to secure its passage.

I am sending copies of this letter to Alison Smith in the Lord Privy Seal's Office and Murdo MacLean in the Chief Whip's Office.

Yours ever
William Hill

for

MS CLARE PELHAM

Tim Flesher, Esq



obscenity legislation:

Hon. Aflaw's
Oct 83

CCBG

Prime Minister (2)



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

You will see that the Home Secretary
proposes

24 February 1986

(i) not to stand in the way of
removing the broadcasters
exemption, and

Dear Mark

(ii) to suggest the replacement of the
"lavender list" with a special "deprave or
corrupt" clause for children. MEA 2412

At Cabinet on Thursday the Home Secretary said that he would have a note prepared on Mr Winston Churchill's Obscene Publications (Protection of Children etc) Amendment Bill.

The primary purposes of the Bill are:

- (i) to remove the exemption from prosecution under the Obscene Publications Act 1959 for material broadcast by the BBC or the IBA; and
- (ii) to provide a more stringent test of obscenity in respect of articles published in a place to which persons under 18 have access or in broadcast material.

The Bill was given a Second Reading by 161 votes to 31 on 24 January. Committee Stage began on Wednesday, 19 February and seems likely to last around 4-5 weeks.

Broadcasting Exemption

The strongest argument against lifting the broadcast exemption is that the exemption signals that the broadcasters already have special obligations which are not laid upon other forms of publishing. At present the broadcasters are responsible to Parliament, rather than to the criminal law at large, and their obligations are stricter than those in the 1959 Act. At a time when we are concerned about standards it may seem somewhat anomalous to seek to introduce a second less severe test of acceptability which will not of itself strengthen the broadcasters' obligations.

However, the present law is undoubtedly seen by many people as conferring special privileges upon the broadcasters. It is impossible to argue with the proposition that the broadcasters ought not to be allowed to show programmes that deprave and corrupt, and in the present climate it is politically difficult to defend the continuation of the exemption. The broadcasters themselves recognise this and are prepared for it. Although the Home Secretary thinks it reasonable that the arguments in favour of the exemption should be fully represented, he would not wish to block its lifting if after hearing the arguments this was the clear view of the majority of the House.

Test of obscenity

In his letter of 18 December to the Lord President, the Home Secretary explained the difficulties with the way in which the Bill sought to apply an additional test of obscenity for articles published in a place to which

Mark Addison, Esq

children had access or shown on television. Clause 2 as drafted sets out a list of activities the depiction of which would automatically render such an article obscene. The Home Secretary proposed that a better way of securing the additional protection for children which the Bill seeks would be to provide that where material is published to children, or put on sale in such a way that children had access to it at the point of sale, the test should be whether the article would tend to deprave and corrupt such children regardless of what effect, if any, it would have on adults.

Mr Churchill has indicated in discussion with Mr Mellor that he has come to have considerable reservations about the list approach. He now accepts that the list as drafted could catch material which, if presented properly and responsibly, would be unobjectionable. He is also aware that the Director of Public Prosecutions' office and the Magistrates' Association have represented to us that the list approach would make it more difficult to secure convictions under the existing deprave and corrupt test.

Mr Mellor accordingly invited Mr Churchill to introduce amendments along the lines recommended in the letter to the Lord President. Mr Churchill has indicated that he agrees that this offers a better prospect and he has now tabled the alternative clause to replace the list approach. This would cover pictures and photographs (for example in magazines and books) but not films or videos which are already subject to classification procedures. The effect should be that the more explicit magazines will be either kept behind the counter or shrink-wrapped and will not be supplied to persons under 18.

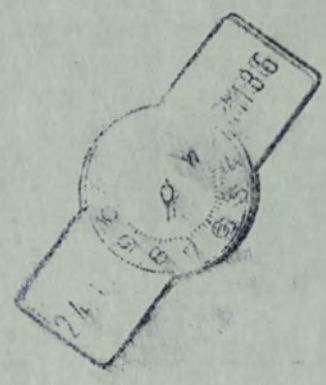
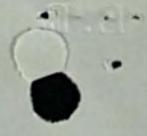
Ministers will keep in close touch with Mr Churchill and, as agreed by H and L, will try to secure a positive outcome to the Bill. With this objective our strategy would be as follows:

- (a) we will not stand in the way of bringing broadcasting within the scope of the 1959 Act, but Mr Mellor will set out fully the considerations which ought to be taken into account before a decision is reached. (Some attention has been given to an item on the Bill on Wednesday's Nine O'Clock News. This seriously misrepresented what Mr Mellor had said by suggesting that he called for television and radio to be excluded from the Obscene Publications Act 1959 whereas in fact he simply pointed out that the existing rules which applied to the broadcasters were far stricter than the 1959 Act);
- (b) we will support the replacement of the list approach by the alternative test canvassed in the Home Secretary's letter of 18 December to the Lord President and now accepted by Mr Churchill.

I am copying this letter to Private Secretaries to the Lord President, the Chancellor of the Duchy of Lancaster, the Lord Privy Seal and the Chief Whip.

Yours as
William

W R FITTALL



CONFIDENTIAL



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

22 January 1986

Dear Mark,

Thank you for your letter of 20 January. As I mentioned, the Lord President ensured that the H Committee discussion was informed by the Prime Minister's views; and the handling of the Bill was, as you know, discussed at L this morning. The business managers undertook to do their best to ensure that the Bill was not prevented from reaching the statute book. The precise form in which it did so would be conditioned by reactions during its Parliamentary passage. The Government spokesman on Second Reading of the Bill will take all due account of the manifesto commitment in explaining the Government's position.

I am sending a copy of this letter to the Private Secretaries to the members of H Committee, and to Michael Stark in the Cabinet Office.

Yours sincerely
Joan

JOAN MACNAUGHTON
Private Secretary

Mark Addison Esq

CONFIDENTIAL

HOME AFFAIRS 10/83

Video Name

PRIVY COUNCIL OFFICE
WHITEHALL LONDON SW1A 1AA



CONFIDENTIAL

PRIME MINISTER'H' COMMITTEE ON TUESDAYThe Churchill Bill

Members of the Committee had before them your views on this Bill. In the end, the Committee decided broadly to support the Home Secretary's proposed approach, though it was clear that the Government should take a sympathetic and helpful line on the Bill's Second Reading, that it should play an active part in Committee Stage, and that the Manifesto commitment should not be lost sight of. The Home Secretary would probably need to come back to his colleagues again in the light of the way issues developed. The Lord President's personal view was that the Bill would probably fail in the Lords - opposed by Lord Houghton and others. But 'L' Committee today thought a Bill in some shape or form would reach the Statute Book. A letter from the Lord President's Office reporting the upshot of 'H' and 'L' is attached.

Radioactive Waste

The Committee had earlier decided to go for the Special Development Order procedure to authorise the exploration of four sites - two inland and two coastal (Elstow, Bedfordshire; Fulbeck, near Grantham; South Killingholme, South Humberside; and Bradwell, Essex). But neither of the two coastal sites would be suitable for MOD purposes, and they had concluded that they would need to find their own. The Environment Secretary had in any case decided that the arguments against coastal sites were strong ones. He therefore proposed that three inland sites should be investigated - Elstow, Fulbeck and a third in Oxfordshire or Buckinghamshire. 'H' agreed that he should discuss this with NIREX and a statement should be made shortly. The Secretary of State for Defence will also consider existing defence sites to find a suitable one for his own nuclear disposal purposes. The precise timing of

announcements would need to be considered further. There was also no decision on the question of how many sites should go forward to a public inquiry.

MEA

Mark Addison

22 January 1986

DG2ATT

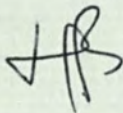
PRIME MINISTER

22 January 1986

MR CHURCHILL'S BILL

H and L Committees have now considered this Bill and they have decided to be more enthusiastic in welcoming it. The summing up was to the effect that the Government should give it a "fair wind", though the meeting minutes use the phrase the Government should be "sympathetic and helpful". The Lord President says the Bill will probably fail in the Lords - opposed by Houghton and others.

The Attorney stated at H committee that he would welcome the Bill, while Nicholas Ridley says he will publicly cross swords with the Attorney if he does speak in the Commons.



HARTLEY BOOTH

file

09217

PRIME MINISTER

'H' COMMITTEE ON TUESDAY

The Churchill Bill

Members of the Committee had before them your views on this Bill. In the end, the Committee decided broadly to support the Home Secretary's proposed approach, though it was clear that the Government should take a sympathetic and helpful line on the Bill's Second Reading, that it should play an active part in Committee Stage, and that the Manifesto commitment should not be lost sight of. The Home Secretary would probably need to come back to his colleagues again in the light of the way issues developed. The Lord President's personal view was that the Bill would probably fail in the Lords - opposed by Lord Houghton and others. But 'L' Committee today thought a Bill in some shape or form would reach the Statute Book. A letter from the Lord President's Office reporting the upshot of 'H' and 'L' is attached.

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announcements would need to be considered further. There was also no decision on the question of how many sites should go forward to a public inquiry.

Mark Addison

22 January 1986

DG2ATT

CONFIDENTIAL



SKW AMX

10 DOWNING STREET

From the Private Secretary

20 January 1986

Dear Joan,

**THE OBSCENE PUBLICATIONS (PROTECTION OF CHILDREN ETC)
AMENDMENT BILL**

The Prime Minister has seen the paper which L Committee will be considering on Wednesday (L(86)17).

She hopes that the Government's response to the Churchill Bill will be rather more enthusiastic than is proposed in the paper. She believes that deliberately to keep a low profile would cast doubt on the Government's Manifesto undertaking and the wish of many to see a successful outcome in this vital area.

The Prime Minister remains unconvinced that the Government's response on the proposal to remove the exemption for broadcasting should depend on the attitude of the broadcasters. In her view the present system of guidelines to which the broadcasting authorities operate has not always proved effective.

The Prime Minister also has some sympathy with the approach adopted in the Bill of defining a limited list of articles presumed to be obscene; though she approves wholeheartedly of the Home Office proposal to pay special attention to the protection of children, for instance by taking account of the time at which they could be watching television.

I am copying this to the Private Secretaries to Members of H Committee and to Michael Stark (Cabinet Office).

Yours sincerely -
Jamie Richard

PP.
(MARK ADDISON)

Miss Joan MacNaughton,
Lord President's Office.

CONFIDENTIAL

PRIME MINISTER

MR CHURCHILL'S BILL ON OBSCENE PUBLICATIONS

H Committee are considering this draft Bill on Tuesday 21 January, and it goes to L the following day. The L paper is attached together with a copy of the Bill (flag A). Hartley Booth's advice is at Flag B.

I think you will take the view that the response proposed by the Home Office is too lukewarm. You will wish to indicate that the broad objectives of the Bill should in fact be enthusiastically supported by the Government, and that any practical or technical difficulties with it should be discussed in Committee.

You may also like to indicate that you are minded to support, in principle, the removal of the exemption for broadcast material, and that endorsing this proposal would show the public that the Government was taking concerns in this area very seriously. It seems strange for the Home Office to argue that the Government's final view should depend on the attitudes of the broadcasters. The broadcasters themselves may acknowledge, or claim to, that their existing rules are more tightly drawn than the test of the Obscene Publications Act. But of course they probably have in mind that the Act will be tightened up, and that their existing guidelines will then provide them with a looser regime. The unbalance would then become the more obvious and much of the purpose of the Bill would be lost.

The Home Office's arguments against the "list approach" are not convincingly set out in the H paper. It seems hard to argue positively that the now restricted list of obscene articles given in the Bill is too broadly drawn. On the other hand, the approach proposed by the Home Office to focus on a special definition of obscene material when children have access to it has some merit also.

E. R.

Content that I should reflect to the Lord President and others that you would wish:-

I would hope

(i) The Government's response to the Churchill Bill to be ~~a good deal~~ ^{rather} more enthusiastic than is proposed in the L paper? *- definitely to keep a low profile*

would cast doubt on our manifesto undertaking and the wish of
(ii) That you remain unconvinced that the Government's ^{motives} response on the proposal to remove the exemption *to see a* for broadcasting should be so qualified and in *successful* particular that it should depend on the attitude *outcome* of the broadcasters? *In my view they have*

been occasions when they have not observed the duties placed upon them in these matters.

(iii) That you have some sympathy with the approach adopted by the Bill for providing a limited list of articles presumed to be obscene and

approve undoubtedly of the Home Office point about times when children could be watching.

MEFA

Mark Addison
17 January 1986

PRIME MINISTER

17 January 1986

MR CHURCHILL'S BILL ON OBSCENITY PUBLICATIONS
[THE OBSCENE PUBLICATIONS (PROTECTION OF CHILDREN ETC)
(AMENDMENT) BILL]

Next week at H Committee, this Bill will be considered. The Bill sets out to remove the exemption of television and radio broadcasting from prosecution under obscenity law. Secondly, the Bill provides a new test of obscenity in the case of an article published anywhere under 18 year olds can have access. This test is expressly extended to television and radio.

You may wish to approve this Bill and inform the Lord President of your view. We support the first proposal. In respect of the second measure, we note that the long and awkward list of obscene acts has been amended by Mr Churchill after consultation with David Mellor and Home Office officials. The new short list, which we highlight in the appendix note, is one that would almost certainly gain considerable public support.

Hartley Booth

HARTLEY BOOTH



SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon Douglas Hurd CBE MP
Home Secretary
50 Queen Anne's Gate
LONDON
SW1H 9AT

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

ccBG

*H will witness meet tomorrow.
We shall need to have the committee
before its rechecked date.
MUST 14/1*

14 January 1986

Dear Secretary of State,

MR CHURCHILL'S BILL TO AMEND THE OBSCENE PUBLICATIONS ACT

Thank you for copying to me your letter of 18 December to Willie Whitelaw detailing your proposals for handling Winston Churchill's Bill to amend the Obscene Publications Act 1959.

I would like to record my general support for the approach you intend to take. While the proposed amendments to the Obscene Publications Act will not apply to Northern Ireland the implications, especially in the area of broadcasting, are of obvious interest. I see the consequences of the removal of the broadcasting exemption in England and Wales as being further complicated by the application of different standards in Northern Ireland (and seemingly in Scotland) to broadcasts capable of nationwide reception. For this reason I would share the reservations expressed against departing from the control of broadcasting through the duties laid down in the BBC Charter and Broadcasting Act 1981.

I am copying this letter to the Prime Minister, the other Members of H Committee and to Sir Robert Armstrong.

*Yours sincerely
Richard
(Private Secretary)*

for^{T K}
(Approved by the Secretary of State
and signed in his absence in
Northern Ireland)

HOME AFFAIRS

OBSCURITY

oct 83



CBB

RESTRICTED



CABINET OFFICE,
WHITEHALL, LONDON SW1A 2AS

Chancellor of the Duchy of Lancaster

Tel No: 233 3299
7471

31st December 1985

The Rt Hon Douglas Hurd MP
Secretary of State for the Home
Department
Home Office
Queen Anne's Gate
LONDON
SW1H 9AT

NBPM

Dear Douglas,

MR CHURCHILL'S BILL TO AMEND THE OBSCENE PUBLICATIONS ACT

Thank you for sending me a copy of your letter of 18 December to Willie Whitelaw.

I agree that we should maintain contact with the promoters of this Bill and to seek a positive outcome. I concur with your view that the "list" approach, as advocated, will lead to difficulties in debate. I wonder whether the problems stem from the construction that certain material "should always be regarded as obscene", allowing the ingenious objector to look for an absurd example to discredit the Bill. Perhaps Winston Churchill should consider a form of strong presumption, rather than an absolute criterion.

As to the exemption from prosecution for the BBC and IBA, I support your view that we should not oppose its removal in principle; while the Chairman of the BBC and IBA would be sincere in their intentions to act upon their responsibility for the content of broadcast material, I would expect to see a constant erosion from within their organisations of any guidelines which they set. A less malleable, if still imperfect, sanction is that offered by the Courts.

I am copying this letter to the Prime Minister, other members of H Committee, and to Sir Robert Armstrong.

NORMAN TEBBIT

Time Affairs Oct. 83

Obscure Publications



OBSCENE PUBLICATIONS (PROTECTION
OF CHILDREN, ETC.) (AMENDMENT)

A
B I L L
TO

Amend section 1 of the Obscene Publications Act 1959 by removing the exemption of television and sound broadcasting and by making further provision with regard to the test of obscenity in the case of an article published in a place to which persons under eighteen years of age have access or an article disseminated through the medium of television or sound broadcasting; and to make consequential provision.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by authority of the same, as follows:-

- Act to apply to television and sound broadcasting.
1. (1) In paragraph (b) of subsection (3) of section 1 (Test of obscenity) of the principal Act, after the words "looked at" there shall be inserted the words "or listened to" and after the words "projects it" there shall be added the words "or disseminates it through the medium of television or sound broadcasting".
 - (2) The proviso to subsection (3) of section 1 of the principal Act shall be omitted.
 - (3) After Subsection (6) of section 2 of the principal Act there shall be added the following Subsection -
"(6A) Proceedings for an offence under this section in respect of an article published through the medium of television or sound broadcasting shall not be instituted except by or with the consent of the Director of Public Prosecutions."

Additional 2.
test of
obscenity
in relat-
ion to
persons under
eighteen
years of
age.

After subsection (3) of section 1 of the principal Act there shall be added the following subsection -

"(3A) Without prejudice to the generality of subsection (1) of this section, an article shall be deemed to be obscene for the purposes of this Act if -

(a) it depicts visually, and in actual or simulated form, acts of masturbation, sodomy, oral/genital connections, oral/anal connections or the lewd exhibition of genital organs or excretory functions; and

(b) it is published in a place to which persons under eighteen years of age have access or it is published through the medium of television broadcasting".

Inter-
pretation.

3. In this Act "the principal Act" means the Obscene Publications Act 1959.

Citation,
commence-
ment and
extent.

4. (1) This Act may be cited as the Obscene Publications (Protection of Children, Etc.) (Amendment) Act 1986.

(2) This Act and the Obscene Publications Acts 1959 and 1964 may be cited together as the Obscene Publications Acts 1959 to 1986.

(3) This Act shall come into operation on 1st January 1987 or on such earlier date as the Secretary of State may by order appoint.

(4) This Act shall not extend to Scotland or to Northern Ireland.

OBSCENE PUBLICATIONS (PROTECTION
OF CHILDREN, ETC.) (AMENDMENT)

Draft /

B I L L

TO

Amend section 1 of the Obscene Publications Act 1959 by removing the exemption of television and sound broadcasting and by making further provisions with regard to the test of obscenity in the case of an article published in a place to which persons under eighteen years of age have access or an article disseminated through the medium of television or sound broadcasting; and to make consequential provision.

Martin & Co.,
1, Dean Farrar Street,
Westminster,
London, SW1H 0DY.

Parliamentary Agents.

20.12.85

Prime Minister ②



The Home Secretary proposes to continue
discussions with Mr. Churchill
on the broadcasting authorities.

QUEEN ANNE'S GATE LONDON SW1H 9AT

He will keep the Govt's willingness
to back amending exemption
from BBC & IBA in reserve. You
will need to have another look

18 December 1985

Dear Willie,
at this stage before 15/1. MEM 18/12

In my letter to you of 5 December I promised to put forward my considered proposals on the handling of Winston Churchill's Private Member's Bill to amend the Obscene Publications Act.

The Bill has not yet been published. Winston Churchill's present intention is that the Bill should make two changes in the law:-

- (i) the basic definition of obscene would stand - i.e. articles which "tend to deprave and corrupt" - but the Bill would qualify it by saying that material should always be regarded as obscene where it portrays certain specific activities such as explicit acts of sexual intercourse involving force or restraint, acts of human urination or excretion, acts of gross violence, etc. and is published in a place to which persons under 18 have access or in broadcast material;
- (ii) the Bill would remove the exemption from prosecution in respect of material broadcast by the BBC or the IBA.

The Bill will raise many difficult questions as it proceeds. For the present the following seem to me the main considerations:

- (i) the Bill deals with matters which are of great public concern. We must seek to secure a positive outcome, which might mean avoiding too high a Government profile. It is important that the Bill should receive a Second Reading so that it can be examined in Committee;
- (ii) the criminal law is an uncertain instrument in this area. It needs to be balanced by other means of regulation and self-regulation, particularly by the broadcasting authorities. We need to have a convincing position across the whole spectrum of public concern; which extends to violence as well as obscenity;

- (iii) the proposed list of matters to be regarded as obscene goes beyond what would probably be endorsed by Parliament. The basic difficulty here is that any list will almost inevitably cover material which is not offensive in certain circumstances and fail to cover material which is generally agreed to be obscene. Such problems have been found over the years to be inherent in the list approach. We shall have endless debates on the Bill about whether particular sexual and violent matters should be included in the list. The present list, which might be held to ban reproductions of the crucifixion, will clearly not do, and it is hard to imagine a satisfactory revision of it. No list could do anything about foul language:
- (iv) it has traditionally been argued that to bring the broadcasting authorities within the scope of the Obscene Publications Act would duplicate their duty under the Charter and the Broadcasting Act not to broadcast material which offends against taste and decency - which should be a sterner test than anything under the Obscene Publications Act. (It is relevant here that the film "First Blood" which was given a "15" certificate for cinema exhibition, was not judged to be suitable for Christmas television viewing). The Chairmen of the BBC and IBA have represented to me their strong opposition to the removal of the exemption. If it were removed it would need to be clear whether the Governors of the BBC and Members of the IBA were liable to prosecution for a criminal offence; or is it to be the programme makers and programme contractors. Either way it could upset the present systems of accountability and responsibility and involve much legal argument. As with cable, any prosecution would need to require the consent of the Director of Public Prosecutions;
- (v) nevertheless, this traditional argument has become less convincing and I doubt if we can oppose in principle the removal of the exemption. But one of the main defects of the Bill in its present form is the link between the removal of the exemption and the proposed list;
- (vi) there are other possible ways of securing the additional protection for children which the promoters of the Bill are seeking. In my view it would be right to provide that where material is published for children or put on sale in such a way that it can be seen, and/or heard by children at the point of sale, the test should be whether the article

would tend to deprave or corrupt such children regardless of what effect, if any, it would have on adults.

I accordingly suggest our approach should be:

- (i) we will continue to explore the ground with Winston Churchill, whom David Mellor met on 17 December;
- (ii) I have seen the broadcasting authorities on both violence and indecency. Privately and publicly, we need to emphasise their responsibility. Both the BBC and the IBA have guidelines on violence. The BBC are reviewing theirs. The key question is the enforcement of these guidelines, and the two authorities have been at pains to emphasise to me the steps they take to ensure this happens. They agreed that they should do more to increase public understanding of the existing procedures and, for example, of the extent to which limitations are imposed on particular programmes. They may also seek to give publicity to their existing arrangements for monitoring public reaction to their programmes which they believe indicate that the general level of public concern is not as high as is sometimes suggested. I will have further exchanges with them in this area;
- (iii) our final attitude should turn on the outcome of these talks and on the final shape of the Bill. I propose to keep in reserve the Government's view on the exemption until I see what emerges on both fronts. Meanwhile in public we shall continue our present line, namely that we recognise the real public concern on these matters, that they are not matters on which it is easy to legislate satisfactorily, that we hope Winston Churchill's initiative can develop to good effect, and that we are in close touch both with him and the broadcasters.

If H Committee members are content with this general approach, Legislation Committee will consider the handling of the Second Reading debate in the usual way on 15 January. I shall keep you and H Committee in touch with later developments.

I am copying this letter to the Prime Minister, the other members of H Committee and to Sir Robert Armstrong.

Yours,
Douglas.





QUEEN ANNE'S GATE LONDON SW1H 9AT

5th. December 1985

Dear Mr. White,

Winston Churchill, who was second in the Private Members' Ballot, has introduced a Bill to amend section 1 of the Obscene Publications Act. The purpose of the Bill, as set out in the long title, is to remove the present exemption from prosecution for material broadcast by the BBC and the IBA and to amend the text of obscenity in respect of articles published in places to which children have access and in respect of television and radio programmes.

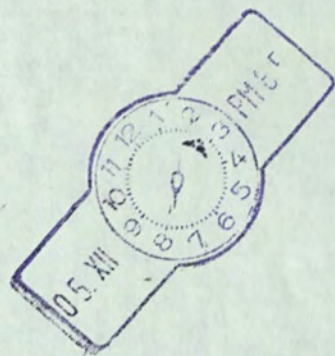
The text of the Bill has not yet been published. David Mellor is, however, in informal touch with Winston Churchill, and we hope to have a better idea of the detail of his proposals within the next week or two. The Bill will raise difficult and sensitive issues, both as to substance and as to handling, but I am well aware of the impetus behind it. The purpose of this letter is just to say that, when we have a clearer idea of Winston's detailed proposals, I will be consulting colleagues about the Government's response.

Meanwhile, if the matter is raised in Geoffrey Johnson-Smith's Debate on 6 December on the causes of violence, including the influence of television - or elsewhere - we shall be saying simply that we are well aware of public concern on the matter and that we are giving the Bill very careful consideration.

I am sending copies of this letter to the Prime Minister, Members of H Committee, the Solicitor General and Robert Armstrong.

Yours
Doyler.

The Rt Hon the Viscount Whitelaw, CH, MC





HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

15 November 1985

MEAT

Dear Stephen

a Minister

Thank you for your letter of 30 October to Stephen Boys Smith about Mrs Whitehouse's letter of 17 October to the Prime Minister. As you know Mrs Whitehouse, supported by two colleagues, came to see the Home Secretary on Monday 11 November and this letter records the outcome of that meeting.

Mrs Whitehouse indicated that she intended to try to secure the agreement of a Private Member successful in the Ballot to introduce a Bill along the lines of that attached to her letter to the Prime Minister. The Home Secretary reminded Mrs Whitehouse that Mr Mellor had already indicated to her that, in his view, her Bill would have the opposite effect to that intended, namely that it would appear to reduce, rather than expand, the scope of the existing definition of obscenity.

Mrs Whitehouse said that if her measure was not acceptable, the Government ought to devise proposals of its own to tighten up the law in this area. The present law was so uncertain that almost anything would be better. In response, the Home Secretary said that he had considerable sympathy with many of the arguments Mrs Whitehouse put forward in favour of tighter obscenity legislation. There was no question of the Home Office having a closed mind on the subject. But before support could be given to any new measure the Government would need to satisfy itself that the changes proposed would be likely to commend themselves to Parliament and would make the law clearer and more effective than at present. None of the proposals he had so far seen satisfied these tests.

In response to Mrs Whitehouse's proposal that broadcasting should be brought within the ambit of the Obscene Publications Acts, the Home Secretary pointed out that the taste and decency obligations to which the broadcasters were subject went much further than the mere avoidance of obscene material. Even the programmes which Mrs Whitehouse found most objectionable would fall far short of the test of obscenity. It did not appear, therefore, that anything would be achieved in practice by bringing broadcasting within the scope of the Obscene Publications Acts.

Mrs Whitehouse and her colleagues suggested that one reason why juries sometimes failed to convict was that the composition of the jury was distorted through the exercise by the defence of its right of peremptory challenge against jurors. The Home Secretary assured her that he shared her concerns. The problem was by no means confined to obscenity cases and the Law Officers had recently agreed that, once the Crown Prosecution Service is in place, it should undertake monitoring of the use of the right to challenge in order to provide evidence on which a decision could be taken on whether to restrict the right of peremptory challenge.

/In addition to

Stephen Sherbourne, Esq

In addition to her well known arguments in favour of reform of the Obscene Publications Acts, Mrs Whitehouse also suggested that a large proportion of sex offenders were influenced by pornography. In addition, she said that she had been warned by American colleagues that if the Government were successfully to crack down on drug traffickers (and she welcomed such an approach) many of the ringleaders would be likely to switch to dealing in pornography. The Home Secretary undertook to inform himself further about the available research into links between, on the one hand, the consumption of pornographic or violent material and, on the other hand, the commission of sexual or violent offences. He said that he would consult the police on the question of whether or not increased traffic in pornography was likely to follow from successful action against drug traffickers.

Finally, the Home Secretary confirmed that if a Bill were to be introduced by a Private Member, he would be very happy for the Home Office to continue to offer constructive advice. But as he had indicated, he had considerable reservations - which, on reflection, Mrs Whitehouse might share - about her present proposal and could not give any commitment about the attitude of the Government to any such measure.

Mrs Whitehouse did not mention the possibility of a follow-up meeting with the Prime Minister.

Yours sincerely
W R Fittall

W R FITTALL



Confidential.

February 8th. 1984.

The Rt. Hon. Margaret Thatcher, M.P.
Prime Minister,
10, Downing Street,
London, S. W. 1.

Prue Murto

My dear Margaret.

To
8/2.

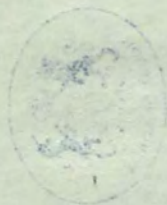
I am writing this note to thank you for seeing us on Monday morning to discuss the prospect of strengthening the Obscene Publications Act.

We do greatly appreciate your personal interest in this difficult problem and your generosity in finding an hour of your precious time to discuss it with us.

In the light of Leon Brittan's advice, the best way forward seems to be by dropping the draft bill with a detailed schedule of definitions, and drafting a simpler bill in more general terms which would strengthen and clarify the '59 Act. I imagine that Leon will be willing to help with the drafting of such a bill, with the intention that it shall be introduced by a Private Member. Accordingly, I will go to work on these lines and hope that fortune may favour us.

With renewed thanks for your kindness in seeing us, and every good wish for the future.

Yours ever
Dick.



E-B
FEB 1964



SUBJECT
OF MASTERfile 116
Mr Alison

10 DOWNING STREET

From the Private Secretary

6 February 1984

As you know, the Prime Minister, together with the Home Secretary, met Lord Nugent, Lord Halsbury, Mr. Finnis and Mr. Johnston today to discuss the draft Bill to revise the Obscene Publication Act 1959 which they had prepared. Mr. Alison was also present.

Opening the meeting the Prime Minister said that she very much shared Lord Nugent's desire to ensure that strong controls were placed upon violent and obscene material: in her view some of the extremely violent material now being produced was indicative of an increasingly cruel society. Nevertheless, there were favourable signs. There was an increasing number of successful prosecutions under the 1959 Act, including one of a violent rather than pornographic film during the previous week. This was perhaps indicative of decreasing public tolerance of obscenity. In addition, Mr. Graham Bright's Video Recordings Bill had been strengthened during its passage in the House of Commons by the requirement that the designated classification body should take into account the fact that films were to be shown in the home. This to some extent offset the disappointment that Sir Bernard Braine's amendment to prohibit films classified 18R from video distribution had failed. Lord Nugent said that he was pleased by these developments. However, he remained convinced that the 1959 Act was inadequate. In particular, the definition of obscenity in the Act allowed too many successful defences, especially when coupled with the defence available under Section 4 of that Act, the so-called "public good" defence. This defence had been particularly used in a number of cases in the 1960s and 1970s by barristers in cases in which obscene material was held to have therapeutic value. What was needed in the view of his group was legislation which specifically ruled out the depiction of certain kinds of material: hence the list of prohibited material in the draft Bill.

The Home Secretary said he did not believe that the present definition of obscenity was wholly ineffective. What mattered was public attitudes. Unless juries saw material as unacceptable

/by the standards

by the standards of the day, there was little merit in a move towards the definition of obscenity proposed in the Bill. The signs were that juries were taking a tougher attitude and if they did so the definition in the 1959 Act - that of the "tendency to deprave and corrupt" - offered considerable scope as was shown by the increasing number of prosecutions. Moreover, the list approach might well exclude material which would be caught under the present Act. An example was a film which encouraged drug-taking. Such a film would clearly be caught by the "tendency to deprave and corrupt" criterion but under Lord Nugent's Bill would not be covered. In practice, therefore, the list approach might well secure fewer rather than more convictions.

Commenting on the definition of obscenity, the Prime Minister said that there might be scope for extension, particularly in the case of material which could be held to disturb or damage the minds of its audience without necessarily depraving or corrupting. In this context the Home Secretary drew attention to the definition of obscenity drawn up by the Williams Committee which was based on the concept of "offensiveness". The Prime Minister thought that this had some merit.

On a different point, Lord Nugent and his colleagues argued that even under the present legislation there was too little resort to action in the courts. For example, the Theatres Act remained largely untested because the Attorney General was required either to bring prosecutions himself or to sanction private prosecutions. The fact that he did not do so effectively meant that the theatre was exempt from the obscenity laws. Mrs. Whitehouse's action against "The Romans in Britain" merely established that the Sexual Offences Act applied to the stage, although it was conceded that this had at least established a firm legal precedent on the matter. The Home Secretary said that he could not comment on the practice of the Attorney General and Director of Public Prosecutions but the fact that there was an increasing number of prosecutions did not suggest an unduly restrictive attitude.

In a specific discussion of the Parliamentary climate for obscenity legislation, the Home Secretary pointed out that the defeat of Sir Bernard Braine's amendment to the Video Recordings Bill was indicative that legislation of the kind suggested by Lord Nugent would have a difficult passage. Perhaps the approach which stood the most chance of success was that based upon a bill which merely refined or extended the definition of obscenity. Otherwise, experience had suggested that limited measures to deal with specific problems had a higher success rate. Lord Nugent said that he had himself introduced a Bill on the definition of obscenity in the House of Lords in a previous session and asked if the Home Secretary would look again at that Bill. The Prime Minister agreed with the Home Secretary that the approach he had outlined was the most likely to be productive and in this context noted that experience with the Video Recordings Bill tended to suggest that such legislation was best sponsored by a backbencher.

/Otherwise

Otherwise opinion tended to polarise around support for the Government rather than on the merits.

Concluding the meeting, the Prime Minister said that she hoped that Lord Nugent and his team would reflect on the points which had been made about their draft Bill and in particular about Parliamentary handling. She also very much hoped that Lord Nugent would take on the Video Recordings Bill in the House of Lords; it was agreed that Lord Nugent would discuss the handling of the Bill with Home Office Ministers. In the meanwhile, the Home Secretary would look again at Lord Nugent's 1982 Bill.

I am sending a copy of this letter to Henry Steel (Law Officers' Department).

TIMOTHY FLESHER

Nigel Pantling, Esq.,
Home Office.

PRIME MINISTER

Attached is the Home Office briefing for your meeting with Lord Nugent on Monday. We have invited the Home Secretary to come in at 1030 for half an hour to discuss the draft Bill which Lord Nugent has submitted. As you will see the Home Secretary has considerable reservations about the approach proposed by Lord Nugent. Given this he is anxious to spend some of the 30 minutes before Lord Nugent arrives discussing tactics. In particular he is worried about giving any impression to Lord Nugent and his team that you and he are in any way at odds on the issue. His concern is partly prompted by the press coverage of the Graham Bright Bill in which as you will recall the defeat of the amendment to prohibit the sale of videos classified 18(R) was presented as a personal defeat for you.

3 February 1984

BRIEF FOR PRIME MINISTER'S MEETING WITH LORD NUGENT TO
DISCUSS HIS DRAFT BILL TO REFORM THE OBSCENE PUBLICATIONS ACTS
ON MONDAY, 6 FEBRUARY AT 10.00 A.M.

1. Lord Nugent has for many years taken an active interest in attempts to tighten the existing law on obscenity. He has introduced various measures in the House of Lords (none of which has made progress) - most recently in 1982.

PARLIAMENTARY GROUP VIDEO ENQUIRY INTO VIDEO VIOLENCE AND CHILDREN

2. Lord Nugent chairs a Parliamentary Group, under the auspices of which a preliminary report on Video Violence and Children was published in November 1983. Further reports are expected to be published shortly.

3. In brief, the report claims that a large proportion of children (over 40% of six year olds) have seen at least one video nasty. There are certain doubts about the methodology and the accuracy of the figures (for example, responses to questionnaires by children, some of whom were as young as five or six, are almost inevitably of dubious accuracy), and it is understood that the research team itself was worried that the preliminary report was published too early. But the report does at least suggest that knowledge of the titles of video nasties is widespread even among young children.

VIDEO RECORDINGS BILL

4. Mr Mellor met Lord Nugent in November and, in the light of his experience in this field, suggested that he should consider piloting the Video Recordings Bill through the House of Lords. This was

on the understanding that the Bill was acceptable to him. Lord Nugent said that he would wish to reserve his position on this until he had assessed the shape of the Bill as it emerged from the House of Commons.

5. Lord Nugent said at the meeting that he accepted that the Bill could not be used as a vehicle for wider reform of the obscenity legislation. His main reservations concerned Restricted (18) material. Notwithstanding a strong Government lead, the vote in Standing Committee has gone against banning the supply of video material in this category for viewing in the home. The issues may come up again in Report, and it may be that the House as a whole will endorse this view. Lord Nugent has said that, in that event, he would wish to move on amendment in a contrary sense in the Lords. There is a need for caution, however, if such an amendment was rejected, on Commons consideration of those amendments, lack of Parliamentary time at the end of the session could endanger the Bill's prospects. Lord Nugent has been warned of this.

OBJECTIONS TO EXISTING LEGISLATION

6. The test of obscenity, as set out in section 1 of the Obscene Publications Act 1959, is whether the effect of the article in question is

"such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear it"

Section 2 of the Theatres Act 1968 contains a similar definition.

The "deprave and corrupt" test might seem a difficult test for the courts to apply but it is doubtful whether in practice they interpret it literally. The definition in the 1959 Act has the effect that an article would fail the statutory test if it was unlikely to deprave and corrupt the particular people who are likely to see, read or hear it.

7. Although the terms of the law are couched in general phrases and there have been inconsistent decisions by the courts, the number of persons convicted under the Obscene Publications Acts has increased from 162 in 1980, to 221 in 1981 and 234 in 1982 (figures for 1983 are not yet available). As to the problem of inconsistent decisions, this is almost inevitable whatever the wording of the relevant legislation given the differences of view within the community - which are reflected in the courts - about the acceptability of pornographic material. It is argued, however, that the uncertainty of the present law and the availability of special defences (such as that which enables a defendant to argue that the publication of an article would be in the public good) has weakened sanctions against pornographic material and encouraged its spread.

"VIDEO NASTIES"

8. Cases which have to be considered by the Crown Courts generally take several months to work through the system, but the impression is that in the case of video nasties (the area which has caused most concern of late) there has been a marked reduction in the number of such articles on supply in recent months as a result of the proceedings that have been brought under the Obscene Publications Acts and the attendant publicity.

THE LIST APPROACH : GENERAL OBSERVATIONS

9. Many who want to see a reform of the Obscene Publications Acts in a more restrictive sense favour a list system setting out specific matters, such as violence and sexual activity or perversion, the depiction of which would be illegal. This is the approach of Lord Nugent's Bill. It appears, however, from discussion at a recent lunch between Mr Mellor and Mrs Whitehouse that Mrs Whitehouse herself may have moved away from this approach.

10. The main problem is that a list of specifically prohibited material is probably too blunt an instrument to deal with the subtleties of distinction between what is and what is not offensive. The circumstances may often be all important. For example, depictions or descriptions of forms of sexual activity which may normally be within the bounds of general acceptability to adults may be unacceptable if, say, children were involved or they were induced by drugs, threats, blackmail, etc. Similarly, certain forms of sexual activity may be acceptable on film or video if portrayed discreetly or shown briefly in long shot, but quite unacceptable if the purpose (for example) is to glamorise sex with violence or if it is shown for long periods in close-up. The danger is, therefore, that a list approach unqualified by any general requirement to prove that the material had an adverse effect or by any reference to context, would end up by catching a great deal of material which many sections of opinion might consider entirely legitimate, and vice versa.

11. A list system would probably be effective only if it comprised a long list setting out all those sexual and violent and other activities the portrayal or description of which are to be regarded as unacceptable, (and even then there must be considerable doubt about whether it would achieve its intended purposes). There would be considerable objections of principle to this approach on the grounds set out above. That aside, there would be considerable disagreement about where the line should be drawn and whether particular sexual activities, deviations and perversions should be included in the list (and indeed whether it should be extended into quite unrelated fields such as racial hatred).

12. A list approach thus tends both to catch material which would generally be regarded as acceptable and to risk failing to catch material which most people would consider objectionable. Lord Nugent's Bill illustrates this. As is pointed out below, his Bill might, for example, render obscene diagrams in sex educational material used in schools, or articles about the problem of child prostitution, while failing to catch some of the worst "video nasties".

13. Recent legislation has, in fact, strengthened the law in areas where Lord Nugent's proposed legislation might well apply less effectively. The Indecent Displays Act 1981, for example, makes illegal the public display of indecent material - this is probably a less severe test than Lord Nugent's formula. The Cinematograph (Amendment) Act 1982 extends the whole range of cinema licensing provisions to cinema clubs - which enables a more detailed and specific control to be applied than might be under more general legislation. Mr Bright's Bill is another example of legislation

which might be desirable even under a revised Obscene Publications Act since it relies on the prior censorship and classification of video recordings - which makes it very much easier for suppliers and the public to determine whether or not a video recording is objectionable and places restrictions on the video recordings which can be supplied to children: the difficulty with the present position is that while many "video nasties" are likely to come within the scope of the present Obscene Publications Act, uncertainty remains until the courts have taken a view about each title, and even then different courts can reach different decisions; the same difficulty would arise even if the Obscene Publications Acts were reformed along the lines proposed by Lord Nugent.

SUMMARY OF LORD NUGENT'S BILL

14. The Bill removes the definition of obscenity in the Obscene Publications Act 1959 and the Theatres Act 1968. It provides instead that, broadly, an article or performance of a play is obscene if it contains any pornographic or sadistic material.

Clause 1(2) defines "pornographic matters", without prejudice to its generality, as including any presentation, description or other representation by words, performance, pictures or sound of certain activities including bestiality, sodomy, child sex or group sex. It includes also any visual representation of certain other matters including "human sexual organs lewdly displayed" and "sexual intercourse".

Clause 1(3) defines "sadistic matter", again without prejudice to its generality, but does so in such a way as largely to duplicate the definition of "pornographic matter".

Clause 2 applies the Obscene Publications Acts to broadcast material.

Clauses 3 and 4 provide a narrower range of exemptions than at present.

Clause 5 increases the penalties, largely by increasing the maximum term of imprisonment on conviction on indictment from three years to five years.

Clause 6 seeks to remove the requirements for the Director of Public Prosecutions' consent in respect of (in effect) prosecution of films for exhibition in a cinema and of plays and for the application to a Justice for a warrant to search for and seize obscene articles.

CRITIQUE OF THE BILL

15. There are a number of points of detailed criticism which could be made on the Bill. This passage, however, deals only with the main proposals of the Bill.

16. The Bill is based essentially on the "list approach", in that it sets out a list of activities, the descriptions or depictions (in various forms) of which are deemed to be obscene. Activities listed in clause 1(2)(ii) (including sexual intercourse) are deemed to be obscene only if depicted visually. Those listed in

Those listed in clause 1(2)(1) (including bestiality, sodomy, child sex) cover the written word also.

17. There are two main exemptions from this definition of obscenity. One is in respect of material published before 1960, provided it would not have been obscene under the Obscene Publications Act 1959 at the time of commencement of Lord Nugent's Bill. However this exemption seems virtually unworkable since, under the Obscene Publications Act 1959, a court has to consider whether an article is obscene taking account of who is likely to see, read or hear it; but Lord Nugent seems to envisage that the deprave and corrupt test in the 1959 Act could be applied in vacuo.

18. The other main exemption is for material in scientific text books or designed for medical training. But this does not extend to material which could legitimately be used for the purposes of treatment, advice or therapy. There is also an exemption for material in certain museums etc. (but not for pictures or descriptions of such works).

19. The overall effect is that (subject to the exemptions) no representation or description of any of the activities listed in clause 1(2)(1) would be possible, quite regardless of the context or the way in which it was presented. Under Lord Nugent's approach, it would, for example, seem impossible to publish straightforward general information on, say, what is involved in homosexuality, for example of the sort that might commonly be found in the advice columns of women's magazines - or serious articles on the problem of child prostitution.

20. Furthermore, the Bill would make obscene any depiction of matters listed in clause 1(2)(ii). This would cover, for example, depictions of sexual intercourse in sex educational material used in schools or issued for marriage guidance purposes. And depictions of "human sexual organs lewdly displayed" would seem to cover a good deal of recognised art.

21. Aside from the considerations of policy, questions would arise in relation to the United Kingdom's international obligations. There must be considerable doubt whether material, which might be caught by Lord Nugent's Bill, could be banned consistently with the European Convention on Human Rights and the United Kingdom's other similar obligations.

22. The draft Bill is also notable for what it does not cover. For example, one of the main causes for concern with "video nasties" is the depiction of violence for its own sake (e.g. "Driller Killer") not necessarily associated with sexual activity. It is far from clear that this would be caught by the Bill. The Bill would also fail to cover material inciting experimentation with drugs, some of which has been subject to successful proceedings under the Obscene Publications Acts.

23. The main virtue claimed for the list approach (its specificity and certainty) is seriously undermined by the stipulation that the definitions of pornographic matter and sadistic matter are "without prejudice to their generality". But without a stipulation along these lines, the Bill would clearly fail to catch a good deal of material which ought to come within its scope; but its inclusion does not much improve matters. The courts are left with no guidance on how "pornographic or sadistic matters" should be interpreted outside the context of the matters listed.

REPEAL OF EXEMPTION FOR BROADCAST MATERIAL

24. Hitherto it has been thought right, in view of the responsibilities placed on the broadcasting authorities as publicly appointed bodies, that broadcast material should be exempted from the Obscene Publications Acts. But this could be looked at again in the context of any overall reform of obscenity legislation. The law on obscenity will, however, be applied to cable programmes by the Cable and Broadcasting Bill on the basis that such programmes will not be provided by publicly accountable authorities.

INCREASE OF PENALTIES

25. While it is important that the penalty of imprisonment is also available to deal with the worst cases falling under the Obscene Publications Acts, for an offence of this kind a relatively short term is likely to prove a sufficient deterrent if coupled with appropriate fines. Certainly the courts take this view - of the 61 offenders imprisoned for obscenity offences in 1982, only four were sentenced to more than one year, only one to over 18 months and none to over two years. There does not seem any need, therefore, to increase the current maximum of three years.

26. The maximum summary fines under the Obscene Publication Act and the Theatres Act are already the "prescribed sum", as the Bill proposes (by virtue of the Criminal Law Act 1977).

DRAFT BILL

Draft of a Bill to amend the Obscene Publications Acts 1959 and 1964 and related provisions of the Theatres Act 1968; and for purposes connected therewith.

Be it enacted, etc.

Revised test of obscenity

1. - (1) For the purposes of the Obscene Publications Acts 1959 and 1964 and of Section 2 of the Theatres Act 1968, an article or a performance of a play is obscene if it contains, embodies or records any pornographic or sadistic matter, or if it stores information for the electronic reproduction of such matter.
- (2) Without prejudice to its generality, the expression "pornographic matter" for the purposes of this Act, includes -
 - (i) any presentation, description or other representation, whether by words, performance, pictures, or sounds, of an activity (whether actual or wholly or partly imagined or simulated) of any of the following types:
 - (a) sexual intercourse or other gross indecency between a person and an animal;
 - (b) sodomy or other gross indecency between persons;
 - (c) sexual intercourse with, or masturbation of or by, a child;
 - (d) acts of masturbation or other genital stimulation, by any physical means, involving two or more persons;
 - (e) group sexual intercourse or sexual orgy;
 - (ii) any presentation, picture or other visual representation of -
 - (a) human sexual organs lewdly displayed;
 - (b) the male sexual organ sexually aroused;
 - (c) masturbation by any person;
 - (d) sexual intercourse between persons.
- (3) Without prejudice to its generality, the expression "sadistic matter" for the purposes of this Act, includes any presentation, description or other representation, whether by words, performance pictures, or sounds, of any sexual activity (whether actual or wholly or partly imagined or simulated) of a type referred to in subsection (2) (i) or (ii) where that activity involves or is represented as involving or accompanying the deliberate infliction of pain.

Repeal of exceptions for broadcasts

2. The proviso to subsection (3) of Section 1 of the Obscene Publications Act 1959 (exceptions for showings in the course of television or sound broadcasting) shall cease to have effect.

Exception for certain matter

3. A person shall not be convicted of an offence against Section 2 of the Obscene Publications Act, and an order for forfeiture shall not be made under Section 3 of that Act, -
 - (i) in respect of any article containing or embodying pornographic or sadistic written matter if it is proved that that matter was in the United Kingdom first published before 1960, and is matter the publication of which immediately before the commencement of this Act would not have been an offence under the Obscene Publications Act 1959 as in force immediately before the said commencement;

- 12
- (ii) in respect of any article if it is proved that that article was published, or prepared or kept for publication, for the purpose only of proceedings in Parliament or of legal proceedings or otherwise in the interests of the administration of justice.

Repeal of defence of public good

4. - (1) Section 4 of the Obscene Publications Act 1959 (and Section 3 of the Theatres Act 1968) (defence of public good) shall cease to have effect.
- (2) Where an article is published in or on a museum, art gallery, monument or ancient work (being a museum, art gallery, monument or ancient work to which the public are ordinarily admitted and which is maintained wholly or in part from funds appropriated by Parliament for museums, art galleries, monuments, ancient works or other like purposes), or is kept in or on any such public museum, art gallery, monument or ancient work with a view to such publication, that publication or keeping shall not be an offence against Section two of the Act of 1959, and an order for forfeiture shall not be made under Section three of that Act in respect of any article while it is so published or kept.
- (3) Notwithstanding anything in the aforesaid Act of 1959 as amended by this Act, matter of a type referred to in items (b) to (d) of subsection (2)(ii) of Section 1 of this Act shall not be deemed to be pornographic where it is published, or prepared or kept for publication, in a bona fide scientific textbook or in a medical textbook published or kept for publication for the use of medical practitioners of persons training to become medical practitioners.

Increase of penalties

5. - (1) Subsection (1) of Section 2 of the Obscene Publications Act 1959 shall be replaced by the following subsection:
- "(1) Subject as hereinafter provided, any person who, whether for gain or not, publishes an obscene article shall be liable:
- (a) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum for the purposes of Section 28 of the Criminal Law Act 1977 (punishment on summary conviction of offences triable either way: £1,000 or other sum substituted by order under the Act), or to both;
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding five years, or both."
- (2) Subsection (2) of Section 2 of the Theatres Act 1968 shall be replaced by the following subsection:
- "Subject to section 7 of this Act, if an obscene performance of a play is given, whether in public or in private, any person who (whether for gain or not) presented or directed that performance shall be liable:
- (a) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum for the purposes of Section 28 of the Criminal Law Act 1977 (punishment on summary conviction of offences triable either way: £1,000 or other sum substituted by order under the Act), or to both;
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding five years, or to both."

Abolition of restriction on institution of proceedings

6. The following provisions (requiring the consent of the Attorney General or the Director of Public Prosecutions, as the case may be for proceedings for an offence under the Obscene Publications Acts 1959 and 1964) shall cease to have effect: -
- Subsection (3A) of Section 2 of the Obscene Publications Act 1959;
 - Subsection (3A) of Section 3 of the Obscene Publication Act 1959;
 - Section 25 of the Criminal Justice Act 1967;
 - Section 8 of the Theatres Act 1968.

Interpretation

7. - (1) The following subsections apply for the interpretation of this Act and of the Acts amended by this Act.
- (2) "child" means a person under the age of 16;
 - "film" includes any form of video-recording;
 - "record" includes any article or device for transmitting sound or a picture or pictures or both.

Short title, commencement, extent and repeals

8. - (1) This Act may be cited as the Obscenity Act 1982.
- (2) This Act comes into force at the expiration of the period of one month beginning with the day on which it is passed, and so far as it amends or repeals provisions of the Obscene Publications Act 1959 (or the Theatres Act 1968) applies only to proceedings for or in relation to offences committed after that period.
 - (3) This Act does not extend to Scotland or Northern Ireland.
 - (4) The enactments referred to in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

SCHEDULE

Enactments Repealed

<u>Chapter</u>	<u>Short Title</u>	<u>Extent of Repeal</u>
7 & 8 Eliz.2 c.66	The Obscene Publications Act 1959	In Section 1, subsection (1) and the proviso to subsection (3). In Section 2, subsections (1), (3A) and (6). In Section 3, subsections (3A) and (7). Section 3(7) Section 4.
1964 c.74	The Obscene Publications Act 1964	Section 1(3) (b)
1968 c.54	The Theatres Act 1968	Section 2(1). Section 3 Section 8
1967 c.80	The Criminal Justice Act 1967	Section 25.

CONFIDENTIAL

DRAFT OF A BILL
TO AMEND THE
OBSCENE PUBLICATIONS ACTS
with an explanatory memorandum

LONDON 1983

Explanatory Memorandum

The purpose of the Bill is to amend the Obscene Publications Acts 1959 and 1964 and related provisions of the Theatres Act 1968.

Revised test of obscenityClause 1

This clause provides for a revised test of obscenity. The existing statutory test "tendency to deprave and corrupt" has been found to be unworkable. This is the first and most important respect in which the current law has "misfired".

The revised test of obscenity embodies two concepts

- a) that there should be a general test of liability "pornographic and sadistic".
- b) that in relation to certain activities there should be an absolute prohibition.

Repeal of exception for broadcastsClause 2

Broadcasting is the most persuasive and influential of all mass media. There is no ground for its exclusion from the Obscene Publications Acts. The repeal by this clause of the proviso to subsection (3) of Section 1 of the Obscene Publications Act 1959 removes this exemption.

Exception for certain matterClause 3

This clause provides for exemption from liability under the Obscene Publications Act 1959 as it is to be amended.

- a) in respect of articles first published before 1960 in the United Kingdom, provided that any publication before the passing of the current Act would not have been an offence under the Obscene Publications Act 1959.
- b) in respect of publication for proper purposes in relation to parliamentary or legal proceedings or generally in the interests of the administration of justice.

Repeal of defence of public good

Clause 4

The Obscene Publications Act 1959 (with a related provision in the Theatres Act 1968) provides for exemption from liability under the Act if it is proved that publication is justified as being for the public good on the grounds that it is in the interests of science, literature, art or learning, or of other objects of general concern. The opinion of experts may be admitted in any proceedings to establish or to negative this ground.

This defence of the public good has also been a major factor in the breakdown of the law and by sub clause (1) of this clause it is taken away.

Sub clauses (2) and (3) provide for exemption from liability in the limited circumstances set out in the sub clauses, i.e. publicly funded and controlled exhibitions and the training of doctors respectively.

Increase of penalties

Clause 5

Penalties under the Obscene Publications Act 1959 are

- a) on summary conviction a fine not exceeding £100 or imprisonment for a term not exceeding six months.

- b) on conviction on indictment a fine or imprisonment not exceeding three years or both.

and under the Theatres Act 1968

- a) on summary conviction a fine not exceeding £400 or imprisonment for a term not exceeding six months.
- b) on conviction on indictment a fine or imprisonment for a term not exceeding three years or both.

These fines are inadequate and by Clause 5 are increased.

Abolition of restriction on institution of proceedings.

Clause 6

The restriction on the right of private persons to lay information and bring prosecutions cannot be justified.

This clause removes existing restrictions in the statutes referred to in the clause.

The draft Bill contains miscellaneous and supplementary provisions appropriate to the subject matter of the Bill. The Act will not extend to Scotland or Northern Ireland.

with policy

cc M.A. 2



ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

30 January 1984

The Rt Hon Leon Brittan QC MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
London SW1

Prime Minister: *JF*
21

Dear Leon.

The vote is
tomorrow but there
is no doubt about the
outcome *JF 31/1*

RE: VIDEO RECORDINGS

You kindly copied to me your minute of 19 January 1984 to the Prime Minister setting out your intention to support certain amendments to the Video Recordings Bill which would have the effect of precluding certification by the designated body of a category of material suitable for sale only to adults under controlled conditions. Subsequently you have made your intention public and it is already clear that the amendments in question will be strongly resisted by many members of the Committee including Graham Bright, the sponsor of the Bill.

Against that background I felt it right to draw your attention to a further factor which militates in favour of such a restriction. The current criteria and standards applicable to censorship by the British Board of Film Censors of film material is based upon the premise that they will be shown to audiences which can be restricted according to age in the legally controlled environment of the cinema. Happily there has been no occasion when a prosecution against a film certified for this purpose by the British Board of Film Censors has been successful. This form of censorship accordingly has proved effective and broadly acceptable



to the public, the local licensing authorities, your Department and the trade.

Different considerations apply in respect of works in video cassette form which are freely available on hire or for sale in shops and which are clearly designed for home entertainment. The Government's position with regard to the Obscene Publications Act 1959 is that it shall continue to exist in parallel with the new legislation because it is considered desirable that the ultimate arbiter of what is obscene should be the Court. Section 1 of that Act requires that determination of the issue of obscenity in any particular case shall take account of the "persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it." The law thus requires that different standards be applied in respect of films in cassette form to those which are available for viewing in the cinema. I communicated this view to Lord Harlech when I discussed difficulties which had arisen over prosecution of certain works with him together with the Director of Public Prosecutions. I know that your officials have also been made aware of this view.

At present a substantial number of video traders are facing prosecution in relation to video works which bear a BBFC certificate as to their suitability for cinema audiences. The British Board of Film Censors is at present considering the implications of this application of the Obscene Publications Act 1959 and as you are aware I have provided the Board with certain guidance as to the approach adopted by the Director of Public Prosecutions to the issue of obscenity. It is the confident hope and belief of David Mellor and myself that the Board will be able to devise a system of classification which will avoid differences of interpretation with the courts.



The purpose of this letter is simply to emphasise that whatever categories of classification it is decided to adopt and whatever criteria determines the boundaries between those categories, it is essential that this is done within the framework which I have outlined above. As I have mentioned, certain material certified by the BBFC for cinema purposes is subject to prosecution. Some of that material is in the "18" category and it does not necessarily follow that the removal of the "R18" classification from the Bill would obviate this problem.

I am of course anxious not to overstep the boundaries of my responsibility into an area of policy but I felt it right to draw my reservations to your attention.

I am copying this letter to
the Prime Minister.

Yours etc.

Michael

Home Affairs: OAscenily 10/83

51 JAN 1984
1 2 3 4 5 6 7 8 9 10 11 12

g... ..
... ..

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... ..
... ..

... ..



10 DOWNING STREET

From the Private Secretary

20 January, 1984

The Prime Minister has now seen the Home Secretary's minute of 19 January about the current position on the Video Recordings Bill. She was grateful to be kept informed and will be interested in the outcome of the vote in Standing Committee on the question of the prohibition of the sale of R18 material.

TIMOTHY FLESHER

Nigel Pantling, Esq.,
Home Office

A handwritten signature in cursive script, likely belonging to Timothy Flesher, located in the bottom right corner of the page.

cc Mr. Allison



Prime Minister:

The Home Secretary will be supporting moves in Standing Committee to prohibit the sale of Restricted (18) videos. Graham Bright is against. I believe the vote takes place on Wednesday

JR 19/11

Prime Minister

VIDEO RECORDINGS BILL

This Bill has reached a crucial stage in Standing Committee and I thought you would like to know where we now stand.

One of the most important issues before the Committee in the next week or so will concern R18 material. This is the category in which the British Board of Film Censors place sexually explicit or violent film material which, in their view, ought to be seen only in restricted club conditions. There is, of course, a very strong body of opinion that such material ought not to be available for viewing on video in the home. When this issue came up on Second Reading, we indicated that we would be glad to abide by the wishes of the House on whether or not the authority designated under the Bill should be allowed to classify such material. We will now need to make our own position on this clear.

My own view, and that of David Mellor, is very strongly that such material is not suitable for sale and that the BBFC ought not to be able to classify it. Whatever may be said in favour of showing material like this in the cinema clubs, I do not think we could possibly defend a situation in which it was available over the counter and therefore liable to be seen by children in the home. I would therefore like David Mellor to take a very strong line on this in Standing Committee. Amendments have been put down which provide a useful platform for discussing the issue in principle and I propose that he should make it clear that it is the Government's firm view that this material should not be classifiable by the BBFC. He would also undertake that, if the vote should go against this proposition (and I gather it will be close, with several of our own supporters, including Graham Bright, likely to vote against) the Government itself will table amendments at Report Stage which would achieve the effect we desire and which would enable the whole House to debate the issue.

/I hope you will

B.R.

I hope you will agree that it is essential, in the interests of obtaining an effective Bill, that we should give this lead. We are already doing everything possible to secure a majority on the Committee for a ban on the classification of R18 material and indeed I intend to make a clear statement on this myself.

I hope also that our position on this issue will ease the fears of those who are worried that the Bill does not go far enough. I know that there is some concern about the role of the British Board of Film Censors under the Bill (and this is a point raised in Mrs Whitehouse's letter of 13 January to David Mellor which was copied to you). We have devised a number of proposals, however, for strengthening the BBFC and for improving its public accountability. I gather these were welcomed by both sides of the Standing Committee when David Mellor described what we had in mind yesterday. I am satisfied that those measures will ensure a Board which is strong and effective and properly responsive to public opinion.

The steps that I am taking on both these fronts should be welcome to all those concerned to bring about effective and rapid controls over the sale of video recordings. This Bill was a Manifesto commitment and we all attach considerable importance to its success. Given the measures I have described, I very much hope that the Bill will attract general support in all its remaining stages, but we will need to maintain the momentum with considerable vigour, on the one hand to gain support for strengthening the Bill in the way I have described, and on the other to persuade those who would like the Bill to go still further than it is, nonetheless, important that they should help to get the Bill into the statute book.

I am copying this minute to Willie Whitelaw, Michael Havers, John Wakeham and Sir Robert Armstrong.

L.B.

19 January 1984



CF

10 DOWNING STREET

From the Private Secretary

9 January 1984

bc

As I mentioned to you, Lord Nugent has asked to see the Prime Minister to discuss a draft Bill which he and a group of colleagues have prepared to replace the Obscene Publications Act 1959. I enclose a copy of Lord Nugent's letter and the draft Bill. The Prime Minister has agreed to see Lord Nugent and his team and a meeting has been arranged for 1045 hours on Monday 6 February. Mrs. Thatcher would be grateful if the Home Secretary could also be present and if he could provide a brief on the draft Bill, to arrive here by Friday 3 February. It might also be convenient if the Home Secretary saw the Prime Minister briefly before Lord Nugent's team, and accordingly we have arranged for him to come in at 1030 hours on 6 February.

Tim Flesher

Hugh Taylor, Esq.,
Home Office.

SR



10 DOWNING STREET

Mr Alison

I suggest that we copy it to the HO, advising Lord N that we

Thanks for the have

sight of this. Will Done so.

Deke Nugent

formally

send a

that the

copy to the Home Office

or should we do so?

TD

Home Secy is to attend the mtg with the PM

MA

5/1

Nugent



10 DOWNING STREET

Michael Alison has spoken
to Lord Nugent and he is
quite happy for Leon Brittan
to be present at the meeting.
Tim Flesher to arrange.

21.12.83

+ Home Sec
D.A.A.

+ 15 min just with H.S.

Tim

H.S. 10.30

hd Nugent etc 10.45

Monday 6th Feb

OK

Prime Minister

REFORM OF THE OBSCENITY LEGISLATION

The attached letter from Dick Nugent asks you to receive him, and one or two others - including Dr Finnis, the Reader at Law at Oxford - to discuss the reform of the Obscene Publications Act 1959.

I am sure that it would be worth your while to see this group, particularly as they have succeeded in drafting, with the help of Dr Finnis, a quite convincing amending Bill - of which I have been given a sight and in which you will, I think, be interested. It will, of course, be available for you to see before a meeting materialises.

You will want to bear in mind Home Office responsibilities and sensibilities in this field. It would be no use trying to divert Dick Nugent seeing the Home Office in the first instance: he (and I) were callers there when Roy Jenkins was Home Secretary, and we got short shrift in trying to argue for a less "wet" Williams Committee. I am sure that Dick Nugent wants to see you because he has no confidence in the official ethos at the Home Office in regard to obscenity law reform.

But to maintain the balance you could either ask Leon Brittan to join you in meeting this group (which might strengthen his hand beneficially at the Home Office); or you could ask the Home Office to evaluate, in advance, Dick Nugent's efforts at drafting an amending Bill as part of your background briefing for the meeting; or you could take both these options.

How would you like us to proceed?

MICHAEL ALISON

MA

Agreed - I hope
he will agree to
Leon being present
15.12 83 MB



December 12th. 1983.

The Rt. Hon. Margaret Thatcher, M.P.
The Prime Minister,
10, Downing Street,
London, S. W. 1.

R3

My dear Margaret.

I am writing to ask if you would receive a small group to discuss with you the comprehensive reform of the Obscene Publications Act 1959.

I have myself taken a close interest in this matter for some years, as you will know. I would bring with me Tony Halsbury, who has been my partner in crime when we have taken our modest initiatives in our House. The other two members of our party would be Dr. John Finnis, Reader in Law in the University of Oxford and Mr. Raymond Johnston, Research and Education Director of CARE Trust (Christian Action Research and Education), a body which has specialised in this field for some years and was formerly known as the Nationwide Festival of Light.

With the approach of the new media dimension of Cable T.V., this subject assumes an even greater importance, so I hope you will feel able to see us.

We would, of course, be willing to attend for a meeting on a date and time to suit your convenience.

With kind regards
Yours ever
D. N. S.

Nugent

(F)

7th December 1983

Thank you so much for your letter of 23rd November, which I found awaiting me on my return from Delhi where I had accompanied the Prime Minister to the Commonwealth Heads of Government Meeting.

Thank you, too, for the letter which you enclosed, addressed to the Prime Minister, together with the Report, which I have shown to her. I am most grateful to you for sending this in.

MICHAEL ALISON

The Rt Hon The Lord Nugent of Guildford

From Lord Nugent of Guildford.



23. 11. 83.

My dear Michael.

I enclose a copy
of a Report, published to-day,
of a private Research Project
to find out what video tapes
children are seeing. Two
further reports, to be published
in January & March next year,
will attempt to analyse what
effect this viewing is having
on them.

The Group, which has promoted & financed this Research, consists of representatives of all our Christian Churches.

The Report shows that of a representative sample of children from England & Wales, 40% of all children have seen a "video nastie" - an alarming figure.

I hope you will feel that this is a useful piece of Research to support legislation to control this new development, and that Margaret Thatcher may be interested to hear about it. Accordingly I enclose a letter to her.

Yours ever
Dleh.

From Lord Nugent of Rintelford



MA Aek 81
12

The Prime Minister.

23. 11. 83.

My dear Margaret.

This note will greet you on your return from the Commonwealth Conference, and I hope that it finds you with your marvellous energy & enthusiasm undiminished by your very strenuous schedule.

I am writing it to let you know that to-day a representative group from the churches in this country has published the first

part of a Report on the Video
Viewing habits of children in
England & Wales.

It shows that 40% of all
children in primary & secondary
schools have seen at least one
"Video Nastie".

This high figure confirms
our worst fears, and the later
two sections of the Report will go
on to analyse the effect this
viewing is having on children.

We hope this Research Project
will strengthen Parliamentary & Public
opinion to support the Bill now
before the Commons.

I have sent Michael Alison,
a copy of the Report in case you wish
to glance at it.
With best wishes yours ever Det.

PRIME MINISTER

YOUR MEETING WITH GRAHAM BRIGHT

You are due to see Graham Bright at 1630 hours tomorrow to talk about his Video Recordings Bill. Attached is a copy of the Bill. The main sections are as follows:

Section 2

This provides that informational, educational or instructional videos are exempt from the Bill unless they depict a range of activities set out in the Section.

Section 4

This provides that the Secretary of State may designate the authority responsible for the certification of videos.

Section 5

Provides broadly three kinds of classification:

i) That the video is suitable for showing to persons of any age.

ii) That the video is suitable for showing to persons above a certain specified age.

iii) The conditions set out in ii) together with a statement that the video cannot be supplied on premises to which persons under the specified age have access.

|| This last classification is intended to be equivalent to the Restricted (18) certificate.

Sections 7 and 8

These provide the principal offences of supply or possession of unclassified videos.

Sections 9, 10, 11 and 12

Provide for subsidiary offences.

/ Section 13

Section 13

Provides that the maximum fine for offences under Sections 7 and 8 shall be £10,000.

As you will recall the principal point of disagreement you had with the Bill was that it provided for the supply of Restricted (18) videos under the circumstances set out in Section 5. You would prefer to see a straightforward ban. Mr. Bright's argument is that a ban would drive such videos underground.

The Bill is being debated on Friday. David Mellor will indicate that the Government is not opposed to a ban on Restricted (18) videos and no doubt amendments to this effect will be put down in Committee.

Other issues you might like to raise with Mr. Bright include:

i) His preference for a licensing approach rather than a list approach. There is after all the element of a list approach in Section 2 of his Bill which specifies that videos can not be exempt from the Bill if they portray certain specified material.

ii) The levels of fines for the principal offences (I understand that there is a possibility that this figure might be raised to £20,000 as part of a general uprating of fines in criminal legislation due to take place shortly).

JF.

9 November 1983

PRIME MINISTER

You may be interested to see the attached letter from the Home Secretary to Mary Whitehouse about the Graham Bright Bill. A central point of the letter is that David Mellor will say on the Second Reading that the Government sees the argument for preventing the sale of Restricted (18) videos and there will be an opportunity for such a prohibition to be discussed during the passage of the Bill. I gather that Graham Bright is very firmly of the opinion that Restricted (18) videos should not be prohibited on the grounds that to do so would drive them underground. He may be open to persuasion on this point but at present his view is far harder on this point than is that of Home Office Ministers.

I understand that, in addition to opposition from Michael Meadowcroft and Max Madden, Brian Mawhinney is also thinking of voting against the Bill on the grounds that it does not go far enough. This does not seem very sensible since if there is sufficient parliamentary opinion in favour of greater restriction, it can be ^{changes} ~~inserted~~ at Committee Stage.

mf *DF*

TIM FLESHER

3 November, 1983



QUEEN ANNE'S GATE LONDON SW1H 9AT

3 November 1983

R. M. Whitehouse

... I am pleased to enclose a copy of Mr Graham Bright's Bill on Video Recordings which is published today.

As you know, I believe that this Bill will considerably strengthen our existing legislation in this area. It deals with a problem of great concern to us all in a way which I believe will command widespread support both within Parliament and outside.

When you discussed with David Mellor and me on 25 July your concerns about Mr Bright's proposals for legislation, I promised to consider the points you raised at that meeting. I have given very careful thought to all these points and we have had extensive discussions about them with Graham Bright, who is, of course, responsible for the contents of the Bill. You are, I think, already aware of the conclusions that have been reached on some of these matters. In particular, you will know from my letter of 10 October of my views on the issue of guidelines to the body to be designated to classify video recordings.

You will also wish to know, however, that although the Bill would allow the designated authority to make use of the Restricted(18) category, it is envisaged that it would only be possible to supply videos classified Restricted(18) in premises no persons under the age of 18 are admitted. It would be possible to obtain such material, therefore, only by making a conscious decision to go to a sex shop or other shop set aside for adults only; it will not be available in premises to which children have access. I understand that Mr Bright considers it is necessary to provide an outlet for people who wish to see this sort of material. The Metropolitan Police have expressed to him informally the view that a ban on Restricted(18) videos might drive such material underground.

For my part, I fully understand your concern that material classified Restricted(18) might get into the hands of children. That is why David Mellor will make clear on Second Reading that we do see the argument for restricting the sale of this material still further. Equally, however, we do not want to see a flourishing black market in material much worse than that which would receive a Restricted(18) certificate and there is also an argument that a ban would lead to this. I know that Graham Bright is concerned, as am I, at that prospect. But I can assure you, and David Mellor will confirm this to the House, that we will look forward to hearing both sides of this argument in Parliament during the passage of the Bill before reaching a considered conclusion. If it was quite clear from the Debates in Parliament and the views of those concerned that the public interest required a ban on Restricted(18) videos then the Government would not in any way seek to obstruct this.

L. Sweeney
Lea B. [unclear]

Mrs Mary Whitehouse, CBE

fcc

28 October 1983

The Prime Minister has asked me to write to you to thank you for the additional material which you have sent in the last week. As you know, she is very grateful to you for coming to see her and much enjoyed your talk with her.

Tim Flesher

Mrs. Mary Whitehouse, C.B.E.



10 DOWNING STREET

THE PRIME MINISTER

PERSONAL

Thank you for your letter of 19 October with which you enclosed the further material you promised at our meeting last week. I am very grateful for the opportunity to have your views with which, as you know, I am much in sympathy and as I said at our meeting I shall be talking to the Home Secretary about the obscenity laws soon.

Mrs. Mary Whitehouse, C.B.E.



CC MASTER SET

10 DOWNING STREET

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cc MA
✓ P Shiple

From the Private Secretary

26 October 1983

The Prime Minister discussed the obscenity laws with the Home Secretary today, with particular reference to the Bill to control video recordings which is shortly to be introduced by Mr. Graham Bright. Mr. Michael Alison was also present.

On the question of obscenity legislation in general, the Prime Minister said that in her view the time was now right for a Government initiative. The Obscene Publication Acts had proved ineffective, particularly against the increasing tide of material depicting extreme and sadistic violence. She believed that legislation embodying a tougher approach would command a majority of the House of Commons. One such approach was control based upon a list of material, the depiction of which would be illegal. The Prime Minister recognised that this could not be entirely watertight but it would certainly be an improvement on the present situation. Moreover, she was prepared to accept the charge of censorship as the price of reducing the risk of the exposure of children to offensive material. The Home Secretary said that he recognised and shared the Prime Minister's concern, although he believed that there would be very considerable opposition to censorship. Moreover, the 'list' systems which were embodied in legislation in Sweden and the United States had not proved effective, partially because they were incomplete and partially because they were qualified by some other criterion such as 'offensiveness'. As a result, the purveyors of objectionable material were able to exploit much the same loopholes as had been apparent in existing legislation in this country.

The Prime Minister said that, despite the difficulties mentioned by the Home Secretary, she wished the whole question of obscenity legislation now to be reviewed, possibly by a small committee of inquiry, with a carefully selected membership. The Home Secretary commented that such a committee might well recommend against tougher legislation. The Williams Committee was an example. Moreover, the priority at present was to get Mr. Bright's Bill on to the statute book. The Prime

/Minister

CONFIDENTIAL

AB

Minister agreed that the Bill should go ahead. In the meanwhile, however, she would be grateful if the Home Secretary could consider how best progress should be made on the obscenity laws in the light of Parliamentary reaction to Mr. Bright's Bill. One possibility might be to sound judicial opinion on, for example, the practicability of the list approach.

On the question of Mr. Graham Bright's Bill on video recordings, the Prime Minister said that she was particularly worried about three aspects of the Bill: first, she did not consider that the fines for selling unlicensed video recordings were sufficiently high; second, she did not consider that the track record of the British Board of Film Censors inspired confidence as to its ability to operate tight control over video recordings; and third, she was disturbed that films classified Restricted (18) would be on sale to the public. Even if sales were confined to premises to which those under 18 did not have access, the fact that video recordings were shown and kept at home meant that children would inevitably be able to see them. The Prime Minister hoped, therefore, that Mr. Bright's Bill could be amended either before its introduction or during its passage.

On these points the Home Secretary said that he was not opposed in principle to increased fines and no doubt the House of Commons would have an opportunity to vote on such proposals during the passage of the Bill. On the role of the British Board of Film Censors, the Home Secretary said that he considered that the Board would operate tight control, especially since for the first time they would be operating under a statutory arrangement. He recognised and shared, nevertheless, the Prime Minister's concern about the availability of video recordings classified Restricted (18). The argument in favour of not prohibiting the distribution of such films was that otherwise they would be driven underground and there would be no control over them at all. The Prime Minister expressed scepticism about this argument although she recognised it was the view of Mr. Bright and of the police officers who had been consulted. The Home Secretary himself said that he would not oppose and might look with favour on a prohibition of the kind proposed by the Prime Minister but, given Mr. Bright's view, and that of the police, he did not think that the Bill should be changed before its introduction. An amendment to this effect would, however, no doubt be proposed during the passage of the Bill and would provide an opportunity for opinion in the House to be tested. The Prime Minister said that she hoped to see Mr. Bright at some stage on this issue. In the meantime, she hoped that attention would be drawn to the question of a prohibition of Restriction (18) video recordings during the Bill's Second Reading on 11 November and that the Home Secretary would give an indication of his views.

TIMOTHY FLESHER

Hugh Taylor, Esq.,
Home Office.



10 DOWNING STREET

MR. ALISON

Attached is my note of the meeting with the Home Secretary.

Are you content?

TF

26 October 1983

Tim

This seems to me to be an admirable summary; if it is still a draft, could you add (towards the end) that the PM
PTO

(a) was not particularly
impressed by the "driven
underground" argument (vide
Heroin etc); (b) that she hoped
that the Home Sec. would
positively advocate the 18(R)
amendment a 2R? MA



10 DOWNING STREET

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on November 11

Tim Flesher

Hugh Taylor, Esq.,
Home Office.

NATIONAL
VIEWERS'
AND
LISTENERS'
ASSOCIATION

ARDLEIGH, COLCHESTER, ESSEX, CO7 7RH
Tel. Colchester (0206) 230123

PRESIDENT:
MRS. MARY WHITEHOUSE, C.B.E.

ORGANISING SECRETARY:
Mr. John C. Beyer

Mr. Tim Flesher
10 Downing Street,
LONDON
SW1.

25th October, 1983

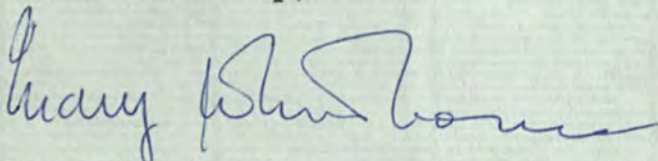
Dear Mr. Flesher,

I apologise for troubling you further but this extract from this weeks 'Times Educational Supplement' seemed to me of great significance and I would be grateful if you could draw it to the attention of the Prime Minister, *if you think it appropriate.*

I include also an extract from the current issue of Video Trade Weekly which spells out very clearly the policy of the trade.

With much thanks for your help.

Yours sincerely,



Mary Whitehouse
President.

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Leatherhead, Surrey, KT24 5AG
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HON. SPEAKERS SECRETARY:
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NEWS

Censorship power

'unthinkable'

IT IS unthinkable for the British Board of Film Censors to be given statutory powers for the censorship of video, according to the BVA.

The association said the BBFC should be re-named, reconstituted, expanded and made publicly accountable for their policies.

And some procedure should be set up for appeals against BBFC decisions.

BVA chairman Donald MacLean and chief executive Norman Abbott last week told of their doubts over the certification of videos, and other aspects of proposed legislation, leading up to the second reading of Graham Bright's Private Members Bill.

MacLean said: "In so far as the Bill could put force of law behind the BVA's own voluntary classification process, Bright's Bill is welcomed by the association".

But the BVA were still apprehensive and believed that government intervention in a domestic activity was fraught with difficulties.

MacLean and Abbott said it was vital that the Bill did

not permit prosecution under the 1959 Obscene Publications Act of any videogram that had been officially classified.

Abbott said: "If this provision does not appear in the Bill it will create for videograms a situation of double jeopardy which specifically does not apply to broadcast or performances in a public cinema."

MacLean said there was increasing evidence during recent weeks of inconsistent action against the reputable majority of videograms.

Seizing

"In many parts of the country, the police are seizing properly classified videograms, and prosecutions under the 1959 Obscene Publications Act are being instigated against reputable companies who are trading with scrupulous regard for the BBFC categories," he said.

"The decisions of the BBFC — the foundation

stones of Bright's Bill — are now being flagrantly disregarded.

"If order does not rapidly replace this legal anarchy, then the BBFC will be permanently discredited and the basis of Bright's Bill will have been wrecked before it even sees the light of day.

"We feel most strongly that not only must the categories of classification (U, PG, 15, 18) be the same for both cinema films and videograms, but the manner of applying them must be uniform."

Abbott said: "In other words, a title granted an 18 certificate must not be liable for further cuts in order to be released as a videogram classified as 18.

Abbott also said it was difficult knowing what titles should be stocked in shops, because there was no such things as a list of banned films.

"There are 6,000 titles in the market at the moment and relatively few have been prosecuted," he said.

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ideo special ideo

Mark had a video

Michael Vincent on a
disturbing case history

I work in a school which serves to help children with emotional and behavioural problems and, like many of my colleagues, I have become concerned with the impact of video "nasties" upon children's emotional and social development. In the last year there has been within the school a growing concern about the video films children are watching at home. When they are asked "What did you watch on the video last night?" there follows what can only be described as obsessional discussion. They talk at great length and in great detail about the violent film they have just seen - a measure of a "good" film will be the number of "killings" it portrays. How does the daily viewing of scenes of sex and violence by young children effect their thinking and behaviour? Perhaps the following case study begins to provide an answer to this question.

* * * * *

Mark is now 13. He is a frail looking child who comes from an unsettled home. His father is inconsistent in his behaviour towards his family: he is violent one day, and passive the next. He wants to mould his son into an image of himself, something Mark is currently rejecting. Mark has grown up with violence. He has seen his mother beaten, and has been encouraged by his father to adopt NF slogans and use them at school and in the surrounding council house estate. He has pursued "paki-bashing" activities with his peers, although more as a bystander. His father feels he must impress with the latest technology, even if this means that the family is deprived of food and clothing.

For Mark's father, obtaining a video became a priority and so he bought one. He joined a video club and regularly brought home for family consumption the latest "XX" rated video film. During subsequent weeks Mark watched an increasing number of these films at all hours of the day. He was allowed to invite his friends for repeat showing of the film, often in vivid slow motion in order to experience "the best bits". Instead of having breakfast Mark would watch the video. He would stay up late to watch the video, and then not being able to sleep because of the state of mind he was in. When he did sleep he had nightmares. How did all this affect Mark?

The effect was cumulative over a number of weeks. He looked increasingly tired because he could not sleep and dark patches beneath his eyes became a permanent facial feature. He lost weight because he was not eating breakfast and because he would rush his supper in order to watch the video. He was tired during lessons, finding it difficult to concentrate, and he began to make silly mistakes. He found it hard to learn new work, and his handwriting became smaller and almost illegible. In conversations his voice would shake and he could not keep his hands still. He would laugh nervously and become easily excited when given the chance to talk about his latest obsession: his father's video and the film he saw on it last night. He would embark on rambling conversations with his friends, each of whom would listen with widening eyes to the latest revelation of violence.

All aspects of Mark's academic, emotional and even physical development were affected. His writing focused on describing the latest tale of horror; his art work became a disturbing visual rendering of a mind which was obsessed with violence, with drawings full of torn bodies, blood and individuals killing one another. His emotional stability had notably deteriorated: he was aggressive, moody and tearful, and had become withdrawn and pallid. He found great difficulty in controlling his limbs, and notably in stopping his hands from shaking.

Watching video films could not alone be blamed for this behaviour. It is the incessant and indiscriminate exposure of a child to such violent material which has contributed to the deterioration in Mark's daily presentation. A similar deterioration was noted in his friends, one of whom was only exposed to this material for a week-end. The school has been able to intervene in this case, and Mark no longer has access to these video films. Within a few days he had regained some of his composure. However, the question remains: How much permanent damage had been done to a child who was already emotionally disturbed?

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PRIME MINISTERHOME SECRETARY: OBSCENITY

The Home Secretary is coming in tomorrow to talk about the obscenity laws in general and Graham Bright's Bill on Video Nasties in particular. The particular points which came out of your meeting with Mrs. Whitehouse and which you will wish to raise with him are as follows:

- i. The desirability of general Government legislation to reform the obscenity laws. As you know, the Home Office believe there is no consensus within the House for such a Bill; your view is that a Government Bill (as opposed to Private Member's legislation) would command a majority in the present House of Commons.
- ii. On Graham Bright's Bill in particular, the Home Office approach is for a licensing ^{persuasive} system. You, however, found Mary Whitehouse's arguments in favour of a list system under which the depiction of material listed in the legislation would be made illegal. The justification for such an approach is that there is a difference in kind between cinema films and video recordings. Films are for public exhibition and entry to them is controlled; video recordings are for private exhibition and there are no such controls over those who see them.
- iii. The Home Office doubt the effectiveness of the list approach but it is already embodied in legislation in Sweden and some American States. I have asked the Home Office to provide evidence of its effectiveness there.

/iv.

iv. Even if the licensing proposals in Graham Bright's Bill were implemented, there is still scope for a more stringent approach through the issue of guidelines to the licensing body (probably the British Board of Film Censors). The Home Secretary has turned down this suggestion from Mrs. Whitehouse. You might ask why.

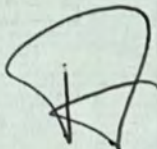
The Home Secretary might well argue that to tinker with Graham Bright's Bill now might jeopardise its passage. If he convinces you, you might ask him to ensure that the question of obscenity legislation in the 1984/5 session should be properly considered collectively.

IF.

PRIME MINISTER

ms

Attached is the additional material which Mary Whitehouse promised. I do not think you need look through this in detail since it broadly repeats what she said at your meeting. The Home Secretary is coming in to see you next Wednesday to discuss the issue of the obscenity laws in general and in particular Mr. Bright's bill. I gather that Lord Whitelaw has also expressed an interest and may well seek to raise the subject at one of the Monday meetings. Meanwhile you might simply like to write to Mrs. Whitehouse to thank her for the extra material and for the way in which she presented her case. A draft is attached.

21 October 1983

NATIONAL VIEWERS' AND LISTENERS' ASSOCIATION

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HON. BRANCH DEVELOPMENT OFFICER:

Mr. John R. Wilson,
18 Corstorphine Bank Terrace,
Edinburgh, EH12 8RX,
Tel: 031-334 1727

19th Oct. 1983.

Mr. Tim Herby,
10 Downing Street,
London. S.W. 1.

Dear Mr. Herby,

May I first say how very grateful I am for all the courtesy & kindness shown to me yesterday and I would be very grateful if you would pass on my appreciation to the Prime Minister -

I am enclosing herewith some material relevant to our conversation yesterday - some of them were no doubt covered but I think our suggestion (see comments on Home Secretary's letter) re the composition of any classification body was not referred to by me.

I expect you already have a copy of the Home Secretary's letter, but in case not I have included one as well as a copy of a letter which came to me recently from the States. It covers broader issues than just video but I felt it might provide some useful background information.

If I can help further in any way, do please let me know.

Again, with many thanks,

Yours sincerely,

Mary Whitehouse

PATRONS:

SIR CYRIL W. BLACK, J.P., D.L., F.R.I.C.S.
VICE-ADMIRAL BASIL BROOK, C.B., C.B.E.
PROFESSOR G. N. M. COLLINS

J. AUDREY ELLISON, B.Sc., Secretary Royal Society of Health
THE VERY REV. JOHN R. GRAY, V.R.D., M.A., D.D.,
Minister at Dunblane Cathedral, Ex Moderator
Church of Scotland
THE EARL OF HALSBURY, F.R.S.
DR. M. HODSON, M.A., Former Lord Bishop of Hereford
THE EARL OF LONGFORD, K.G., P.C.

AIR CHIEF MARSHAL SIR THEODORE McEVOY, C.B.E., K.C.B.
LADY PRITCHARD
MAJOR-GENERAL D. N. WIMBERLEY, C.B., D.S.O., M.C., D.L., LL.D.
THE RT. REV. M. A. P. WOOD, D.S.C., M.A., R.N.R.,
Bishop of Norwich

COMMENTS ON HOME SECRETARY'S LETTER

Para. 3 The Home Secretary may feel it "an exaggeration" to describe the Obscene Publications Acts as "ineffective", but the police have no doubt at all that they are.

Para. 4 The Home Secretary appears to be decided for Parliament instead of giving it a chance to decide for itself!

Para. 6 The Home Secretary evidently feels it necessary to avoid the need for "subjective interpretations". But what else would be those made by the BBFC?

We much regret the Home Secretary's decision not to issue guide lines since this, in our view, is the only way to get effective legislation quickly on to the Statute Book to deal with the present urgent situation.

It is essential that the classifying body is not the BBFC.

We recommend that it should be composed of representatives of a cross section of men and women, young and old from all walks of life each to serve a limited period.



QUEEN ANNE'S GATE LONDON SW1H 9AT

10 October 1983

Dear Mrs Whitehouse,

Thank you for your further letter of 5 September about the legislation on obscenity and Mr Graham Bright's Bill on Video Recordings.

I fully understand your very deep concern about the availability of pornographic material in our society. What is, I think, at issue is the practicability of further comprehensive legislation in this field, given the wide differences of opinion that exist on the direction such legislation should take.

As I made clear in my earlier letter, I certainly accept that there are inadequacies in the Obscene Publications Acts. However I do consider it would be an exaggeration to describe them as ineffective; convictions continue to be secured under section 2 and forfeitures ordered under section 3 and, perhaps more importantly, the threat of prosecution continues to hang over those who deal in pornographic material - which includes violence. Furthermore, these Acts do not stand on their own; they are buttressed by a good deal of legislation dealing with particular areas of concern.

We must not underestimate the very real difficulties in the way of securing even broad agreement about the way in which these Acts should be reformed. It is my firm view that there would be widely diverging and strongly held views within Parliament over this. I must emphasise, moreover, that I would fully expect these views to diverge even within political parties. It is the usual practice on matters so closely affecting issues of individual conscience to seek to allow Members to vote as they wish. Given that I do not perceive a basis of general support within Parliament for a specific approach to this problem, I do not think that, at present, a general reform of the Obscene Publications Act is practicable.

It is entirely consistent with our manifesto commitment that, in this situation, we should concentrate on those areas which give rise to particular difficulties and concern and which can be tackled without attracting the sort of problems to which I refer above. As you know, we have been very active on this front over the last few years and Mr Bright's present proposals are an excellent example of this approach. It deals with a specific problem of great concern to many people and it has, I believe, a good prospect of receiving Parliamentary approval.

On the detail of the proposed Bill, you suggest that the body to be designated to carry out classification should be issued with guidelines on the type of material to be excluded from classification. I have given further thought to this since our meeting and I am afraid my view still remains that I do not think it would be possible to devise a list which was sufficiently precise and comprehensive and

/which avoided

Mrs M Whitehouse, CBE

which avoided the need for subjective interpretations. Not only would such an approach risk attracting the problems associated with the Obscene Publications Acts, there is a very clear risk that the inclusion in the Bill of such a formula would provoke so much disagreement and argument as to prejudice the prospects of its enactment. It is, of course, intended that the Secretary of State should have power to remove the designation from the classification body if that body failed to discharge its responsibilities properly and, in my view, this will provide the necessary element of public accountability.

Finally, I am grateful to you for letting me see a copy of the letter sent to you recently by Mr Hinson McAuliffe which I have read with interest. I do, of course, fully share your concern that cable television should be properly controlled. It is for this reason that we have made clear in our White Paper that all cable channels will be subject to the same good taste and decency rules as the existing broadcasting authorities and the same obligations to have regard to the programmes shown when large numbers of children and young people are likely to be watching. In addition, cable channels will be subject to the Obscene Publications Acts. This is an important extra safeguard.

Y sincerely

Leon Britton

COUNCIL
OF EUROPE



CONSEIL
DE L'EUROPE

PARLIAMENTARY ASSEMBLY

Doc. 5013 - E

Extracts from:

**A CULTURAL AND EDUCATIONAL APPROACH
TO THE PROBLEM OF VIOLENCE**

SWEDEN See pages 133, 134, 135, 136

DOMENICO MECCOLI pages 146 & 147

**Report
of the Committee on Culture and Education**

**Rapporteurs :
Mrs Anér, MM. Aano, Atkinson and Mayoud**

STRASBOURG

1983

**Poor quality
text due to the
nature of the
material.**

**Image quality is
best available.**

Video enters the stage. The appointment of a commission

As in other countries, video was first used in Sweden as an aid in education and training in a number of different contexts. Educational television programmes were - and still are - taped and used in public schools and in adult education classes and study groups. In hospitals, specially produced video programmes are used to train personnel and to instruct patients in the care of their illnesses. Within business and industry, video is used to train personnel, to explain company policy, to inform about new products, and for marketing purposes. Subsidiaries in Sweden of multinational corporations are connected to their world-wide video networks, and some Swedish owned companies have established their own networks. Various branches of the state administration are using video both in their internal and their external information activities.

When, in the early seventies, the old open reel machines gave way to video cassette recorders, it became obvious that they would be used not only in the institutional field but also for entertainment purposes in the home.

A very rapid growth of the market was expected. Anticipations of a widespread use of video as a means for home entertainment triggered a debate on the merits and dangers of the new medium.

Some were worried and feared that the public might become uncritical, passive consumers of sports programmes, light entertainment, violence and pornography. This was expected to lead to more isolation, making people less likely to take part in social and political action. It was also thought that the well educated would choose programmes of a higher quality than the less well educated and that this would tend to conserve cultural and educational differences between social groups. There was also concern that home video might have harmful effects on children, both because of the amount of viewing in which they might indulge and the kind of programmes to which they might be exposed. It was suggested that the state should take action to control the output of programming.

Other observers claimed that it was desirable that through the new medium people be given a wider freedom of choice than the two TV channels which the Swedish Broadcasting Corporation offered. Adult persons, it was argued, should be allowed to take responsibility for their own viewing habits, and parents should be responsible for what their children saw. The state should ensure that good programmes were available. Video programmes shown publicly should be subject to the same rules as films shown in cinemas. It was claimed that if the state should try to control or limit the output of video programmes for private use this would be to tamper with the principle of freedom of expression, which must have the freedom to receive information as its counterpart.

In 1977, the nonsocialist government, which had taken office in the preceding year, appointed a commission consisting of five members from all parties in the Swedish Parliament except the Communists, to make recommendations concerning the use of video technology within the framework of the overall cultural policy adopted by parliament three years earlier. The terms of reference of the commission recognised that videograms have considerable potential for cultural activities, in the field of education, and as a means to inform and involve the citizens. "One must not, however," it was added, "ignore the risk that videograms - like any other new mass medium - may also have less desirable effects with respect to cultural policy in the longer term. This might be the case, if for example, videograms were to become a mass market item featuring programmes produced with no other than purely commercial ambitions." The commission was to give special attention to "measures designed to safeguard freedom of expression and to secure the practical preconditions for the exercise of that freedom". The needs of certain groups were to be accorded special consideration. Among those were children, merchant sailors, Swedes living abroad, and certain handicapped groups. In order to ensure the availability of programmes of good quality, the commission was to give special attention to the possibility of making television programmes produced by the Swedish Broadcasting Corporation available as videograms.

The growth of home video

The growth of the home video market was much slower than the industry had expected in the early seventies, but in 1980 the market took off. During that year, the number of video recorders in Sweden more than doubled, rising from 60,000 to 140,000. By the end of 1981, the total was about 300,000, representing 9% of all homes with a TV set. That is probably the highest penetration in any country except Japan. This year, however, the market has grown much more slowly, and the industry hopes to sell roughly the same number of machines as last year, thereby reducing the rate of increase from 110% in 1981 to about 50%. Even this may turn out to be too optimistic an estimate.

It is even more uncertain what kind of growth to expect in the years ahead. Sometimes comparisons are made with the spread of other electronic media. If the number of video recorders should increase at the same rate as colour TV sets in the early years of that technology, there will be 1.5 million video players in the country by the end of 1985, representing 41% of the homes with a TV set. If, on the other hand, the same number of video recorders are sold in the next few years as in 1981, the total will be around 900,000 at the end of 1985, representing 24% of all TV homes. The Video Commission said, in 1981, that probably the real outcome would be somewhere between those two estimates. Present market trends indicate, however, that even the lower figure may not be reached in 1985.

At the outset, home video recorders were used almost exclusively for recording television programmes for later use (time shift). The rapid increase in the sale of video recorders starting in 1980 created a market for prerecorded cassettes. Initially a large share of the titles available were films of a deplorably low quality, containing much pornography and violence, often mixing sex and violence.

According to Swedish law, a film may not be shown in public unless it is approved by a special agency, the State Cinema Bureau. Such approval is not to be accorded to films or sequences which may have a brutalising or a harmfully excitatory effect or which may seduce to crime. Neither is the Bureau to approve the public showing to children of films which which may be psychologically harmful to children. These censorship rules do not apply to films shown privately or to "trapped societies". Since the law was enacted before the advent of video it does not apply to moving pictures recorded on magnetic tape or on discs.

Thus the market of prerecorded cassettes could grow without the restraints imposed on cinema film by the rules of censorship. In December 1980 a television programme, "Who needs video?", exposed the availability of some video films with scenes of brutal violence. For some time "The Texas Chain-Saw Massacre" almost became a synonym of video. Public indignation requested new legislation to restrain violence in video. This affected the work of the Video Commission, which will be dealt with in the next section of this paper.

At the end of 1980 the market of prerecorded cassettes included between 600 and 700 titles. The Video Commission found that some 14% of those contained scenes with "brutal, sadistic violence". Since then, the market has grown rapidly. Some of the most violent films have been withdrawn and a large number of films that comply with the standards set by the rules of film censorship have been added. A study made by the Swedish Broadcasting Corporation in March 1981 showed, however, that video recorders were still primarily used for time shift. During one week, 75% of the programmes viewed in homes with a video player had been recorded off-air. In 1982 the corresponding figure was 63%. Prerecorded cassettes accounted for the rest.

Among programmes recorded off-air, TV fiction and entertainment accounted for about 20% each, children's programmes and feature films for 15% each. Of the persons interviewed only 8% reported they had seen a TV programme dealing with political or social matters on video, and none had seen a nature or science programme. Those having viewed prerecorded cassettes the day before the interview mentioned about 250 titles. 10% of those are Swedish productions, 95% of them being children's films. Many of the titles mentioned by male respondents between 9 and 24 years of age are adventure films and Westerns. Video viewers above 24 tend to see feature films of a better quality.

The average TV viewing time in Sweden is 82 minutes a day. For video owners it is 80 minutes. This marginal difference shows that, on the whole, video owners do not see TV less than the average Swede. Half

the video viewing takes place before 6 o'clock in the evening, ie before TV transmissions start. It seems, then, that video viewing does not replace TV viewing but is added to it. That runs counter to the expectations of some observers. We do not know on what kind of activities video is infringing.

It should be remembered, however, that video still accounts for a rather small share of the overall media mix. On an average day only about 5% of the total population see video. About two thirds of video owners turn on their players once a week (1).

The recommendations of the Video Commission

The Video Commission covered a wide range of aspects of the new technology. It made recommendations on, among other things, the distribution of Swedish TV programmes on video cassettes to Swedes living abroad, the use of video as a communications medium for migrant workers from abroad, the distribution of videograms through public libraries, the use of video for the benefit of the deaf, the establishment of media workshops in order to stimulate local communication, the development of video art, and the use of video in education. Altogether in its four years of work the commission published six reports, totalling about 1,300 pages. In this section I shall confine myself to presenting its discussion of violence in video and the measures needed to restrict it.

At an early stage of its work, the commission asked a sociologist, Dr. Kerstin Elmhorn, to make a survey of research available in different countries on the way children are influenced by film, television and video. The result was published under the title Film on TV i barnens värld ("Film and TV in the world of children"). It partly deals with the effects of violence. From this report and other evidence available the commission in its final report, Video, drew the following conclusion: "Viewing TV programmes which repeatedly use violence for entertainment purposes and treat it in a positive way will result in influencing our attitudes so that violence is accepted. This, in turn, may lead to antisocial attitudes and asocial and maybe criminal behaviour."

Discussing the supply of prerecorded cassettes containing frequent scenes with violence available on the consumer market, the commission wrote: "Crude, speculative descriptions of violence in videograms and films are in glaring contrast to the ethical and humanistic values which are fundamental in our society." At the same time, the commission was aware that freedom of expression is another basic value, which enjoys the protection of the Swedish Constitution. Thus there is a conflict, which calls for careful solution.

(1) The report on video viewing in 1982 from the Swedish Broadcasting Corporation has not yet been published. Hopefully it will be possible to give a better account of its results at the hearing in Assisi. By then, other reports on video in Sweden may also be available.

In Sweden, there is a rather general consensus on three points that are of importance in this context:

1. The portrayal of factual violence, eg in reporting from war and unrest in different parts of the world, must be permitted. It may be regarded as an aspect of the freedom of information which is essential in the forming of public opinion. One must, however, be aware that even portrayals of this kind of violence may be harmful. Studies by Dr. W A Belson in London indicate that most people can stand a certain amount of violence without being influenced negatively by it but that they suddenly reach a limit where they start using violence.
2. In works of art the portrayal of violence may be justified or even necessary because it helps us to understand our world and ourselves. Obviously it is difficult to draw the line between what is justified on artistic grounds and what is not.
3. Films and videograms that are to be shown to children must conform to stricter standards than those seen by adults. This principle was easy to uphold when films were shown only in cinemas where age limits could be enforced. It was undercut when films started to be shown on TV and when prerecorded video cassettes became generally available, since in the living room no age limits can be enforced.

The Video Commission found that there are at least three different ways to curb the distribution of films and videograms with violence:

1. The adoption by the industry of self-imposed ethical standards

There have been attempts initiated by the industry itself to reach an agreement on such guidelines. The Video Commission tried to assist in this process and invited representatives of the film and video industry and the Swedish Broadcasting Corporation to a hearing in March 1981. The Secretariat of the Commission made the suggestion that wholesale distributors of videograms should sign an agreement on certain ethical guidelines and that, furthermore, they should undertake to distribute videograms only through retailers who had promised not to carry any videograms from companies not having signed the agreement. At that time, however, it was not possible to reach such an agreement. The representatives of the film industry wanted to wait and see if another government commission might recommend the abolition of censorship of films for adults. Deliberations on ethical standards continued, however, even after the Video Commission had completed its work. Largely because of the pressure of public opinion, ten major videogram distributors in November 1981 signed an agreement to conform to the standards of film censorship. A number of companies, however, have so far refused to join it.

2. Censorship

In Sweden, films that are to be shown in cinemas must first be inspected by the Cinema Bureau (see the preceding section). Demands have been made that this censorship be extended to comprise even films and videograms

which are made available for private use. The Video Commission discussed this matter in some detail. For a number of reasons, it rejected the idea of such an extension of obligatory censorship.

It would be in conflict with the principle of freedom of expression, the Commission said, adding that it was doubtful if it would be compatible with the Constitution. Furthermore, obligatory censorship of films and videograms for private use would require a considerable enlargement of the Cinema Bureau because of the number of titles that would have to be inspected. The Commission also referred to the fact that films shown on TV are not subject to censorship since it was considered important to give public service radio and television an independent position in Swedish society. The basic programme rules are laid down in a contract between the state and the Swedish Broadcasting Corporation, which allows considerable freedom of expression in those media. The Commission asked if it would be consistent to require films and videograms shown in the home to be inspected in advance by a government agency while TV programmes seen in the home were not subject to such censorship. Thus the independent position of the Broadcasting Corporation might be prejudiced. Finally, the Commission pointed out that obligatory censorship of films and videograms for private use would only be partially effective, since anyone would be able to buy uninspected video cassettes abroad, which could then be lent to friends and neighbours.

3. Legislation on content, with violations prosecuted "after the event"

In June 1981, a law was adopted which prohibits the commercial renting or showing to children below 15 of films and videograms with detailed and realistic portrayals of violence or threats of violence to human beings or animals. This year, parliament passed another law prohibiting the distribution to adults of films and videograms containing indiscreet and prolonged portrayals of brutal or sadistic violence. Violation of those laws will be prosecuted "after the event".

This was in line with the recommendations of the Video Commission, which in its final report suggested that the standards now governing film censorship be used to formulate a new law determining the kind of content which is not to be permitted in films and videograms. It should be the task of the courts to decide when this law is violated. Since the border lines between different media are becoming more and more hazy, it might be possible to extend a law of this kind to include several media - films and videograms, whether shown in public or distributed for private use, and television.

The procedure for deciding whether this law has been violated should be the same as in cases involving violations of the law on the freedom of the press. One important feature of this procedure is that for each publication there has to be a publisher who bears the sole responsibility for what appears in the publication. There seems to be no difficulty to transfer this requirement to films and videograms.

The Commission said that it is up to the publisher to judge whether the contents of a film or a videogram conform to the law or not. It ought to be in the interest of the industry to establish an advisory agency to which a publisher can turn in doubtful cases. The Commission also suggested that youth organisations and organisations of professionals who work with children might feel the need to create some kind of agency to review videograms that appear on the market and provide them with a declaration of content as a service to parents and teachers.

Most of the recommendations of the Video Commission have not yet been acted on by the Government. Matters dealing with censorship and other questions related to freedom of expression are being considered by a special commission which is expected to present its recommendations in the fall of 1982.

1. INTRODUCTORY REMARKS

a. Violence is said to be one of the two basic themes in films, the other being sex. The explanation of this phenomenon (and its success) lies, according to some psychologists, in the fact that violence and sexual freedom, which were natural in primitive man, were as though stifled with man's gradual adoption of the rules of life in society and survive as kinds of unconscious frustration.

b. Nowadays violence is a part of everyday life. The mass media give us a daily diet of wars, guerrilla activities, coups d'état, repression, outrages, slaughter, robbery and assaults that gradually induces a state of habituation from which individuals and their peer groups are roused only when they are directly concerned. And habituation is the parent of indifference, which turns the individual into a mere spectator of the sufferings of others.

For the same reasons and through the same channels a similar impact is made by non-sanguinary forms of violence ranging from those involving corruption and fraud to those such as advertising techniques that are in a sense conditioned by man's own behaviour.

c. Instead of improving and developing the individual's critical faculties the continuous, incessant, indiscriminate and contradictory torrent of audiovisual information ends up by diminishing them and fostering the decline and degradation of moral standards by increasingly blurring the distinction between good and evil, right and wrong, truth and falsehood. We all know that no news is good news, and public information channels are no exception to this rule.

d. The mass media have promoted and spread ostentation and the idea of the hero at all levels. (In the case of the cinema, Chaplin sensed this in no time in one of his earliest slapstick films, "Kid Auto Races" (1914), in which he is seen repeatedly showing off in front of a motion-picture camera that is filming a small-car race.)

e. The mass media themselves become instruments of violence when, as happens more and more often, they invade privacy and when they are controlled and directed by powerful political and economic interests.

2. THE CINEMA

In these circumstances, it is strangely enough the cinema rather than the other media that is held to be guilty of fostering violence, and this regardless of the fact that:

- a. motion pictures, even when based on real events, are fruits of the imagination and the spectator is aware of this;

- b. film production is conditioned by the public who are free to pay or not to pay for a ticket to see a particular film: indeed at the present time there has been a marked drop in the number of films of violence and box office receipts indicate a clear preference for films that amuse or offer opportunities for escape (eg. space adventures). In other words, the market reacts on its own account, opening or closing itself automatically to one genre or another, and therefore to violence too. The natural intermediaries between the public and film producers - ie. exhibitors and distributors - can speed up or retard this process but cannot prevent it.

At all events, it is a moot point whether violence in films is harmful. There are no scientifically irrefutable studies of a causal relationship. Psychologists and sociologists are divided, some claiming that the portrayal of violence acts as an incitement to copy it and others arguing that it is cathartic and liberating. Nevertheless even the latter group recognises that it may have a pathological influence on subjects with a predisposition to aggressiveness.

But even if negatively suggestible subjects are a minority, this does not mean that there is no need to consider the desirability of correctives, especially when the cineast's sole aim is, for reasons of pecuniary gain, to pander to the public's worst instincts or when his own moral and creative limitations render him incapable of so depicting violence that its inherent evil and the pain it causes are understood.

The following should be completely proscribed:

- detailed ("technical") portrayal of acts of violence and of crime generally;
- brutality;
- scenes of torture and gratuitous sadism;
- apologias of violence
- incitement to hatred.

But how can this be done? By the film industry setting up its own supervisory boards to ensure observance of a freely accepted code of practice? By state censorship?

Film industry's own supervisory boards: these have proved ineffective. Having no legal status, they cannot impose obligations on non-members and this, in short, means that their decisions are disregarded by the members themselves.

Censorship: this instrument is discredited because of its inevitable subservience to the political whims of governments and always constitutes a restriction of freedom. If adults are considered intelligent enough to vote, ie. to choose their own representatives to conduct affairs of state,

they must also be reckoned sufficiently intelligent to choose and judge a film without the intervention of some intermediary body. Properly structured censorship is, on the other hand, essential for deciding which films should be classed as unsuitable for minors. Such films would certainly include those containing incitement to hatred and violence of the kinds mentioned earlier.

An agreement along these lines between all Council of Europe member states would be desirable, and not only in respect of films screened in public cinemas but also in respect of those shown on television, a much more widespread and less easily controlled medium.

The magnitude of the problem is not fully appreciated and yet it is one that is going to get steadily worse as a result of technological developments which will make dissemination easier.

Furthermore, not all the regulations in force give the problem of violence the attention it deserves. (On the other hand, we know that there are countries with totalitarian regimes in which the film industry is brainwashed into exalting higher ideals and banishing violence, though this does not prevent such countries from resorting to violence to promote their own interests and impose their own will.)

If common action is to be taken on the essential principles, it would be important for the Assisi hearing to have an up-to-date comparative study of the attention paid to violence in the various European countries' statutes and regulations.

3. CONCLUSIONS

Freedom is the principal prerequisite of the search for truth, but truth cannot be established without dialectics and the dialectical process cannot ignore violence, which is one aspect of reality. Unfortunately, in most cases, violence becomes purely and simply a spectacle to satisfy the public's depraved tastes and in so doing contributes to deception and falsehood rather than to truth. This applies as much to the other media as to the cinema, their interrelationship being obvious.

How can we tackle and discourage this kind of aberration?

Mention has already been made of the possibility of a common agreement to control the screening and broadcasting of films classed as unsuitable for minors and of the inclusion of violence among the deciding factors for such classification. Furthermore, pressure might be brought to bear on economic interests, for instance by requiring states not to give financial aid to the production of films (for cinemas or, in most cases now, for both cinemas and television) that are characterised by gratuitous violence.

But an urgent appeal ought to go out from St Francis' native land and in his name for reflection on the media's moral responsibility, asking their staffs to show respect for man and for human life and, at the same time, reminding parents of the need and of their duty to prevent their children from seeing any scenes of violence that may be shown on television. The effects of repressive measures are partial and transitory, and private interests eventually find loopholes and ways round them. Generally speaking, therefore, the greatest emphasis needs to be placed on developing in children from their earliest schooldays a critical awareness of the positive and negative features of the mass media.

From Gb. Constable James Anderson. Greater
Manchester Police. This followed a meeting between
the group representing Chief Constables of which
Mr Anderson was Chairman, on Mr. W. J. Bolan at
5th August, 1983. Re Home Office

Control of Video Cassettes

I was very grateful for the opportunity yesterday to meet you and your colleagues at the Home Office to discuss the above matter. I appreciate that a note is being prepared about it which will presumably identify those areas which require further enquiry and more detailed discussions.

However, I would like to emphasise two particular aspects which cause me some concern. First, the proposal that the British Board of Film Censors should be the 'designated body'. For the reasons I explained I am quite sure that this decision should be reconsidered.

Second, is the problem of classification and certification. This is perhaps the most difficult and crucial issue of all. Everything will depend from the outset on the criteria for classification employed by the BBFC and the standards they choose to set. If, as was suggested at our meeting, the worst kind of horror film or video nasty is unlikely to receive a certificate of any kind from the BBFC, then some progress towards solving the problem we face will have been achieved. In that sense, the circulation of such material as a normal commercial venture will be almost totally nullified but the freedom to manufacture it will remain.

I noted your comment that no decisions have yet been taken on the nature of the classifications which will be adopted or upon whether the same classification will apply, without distinction, as between the high street cinema or cinema club on the one hand and the countless video outlets on the other.

A matter of paramount importance to the police is the question whether or not the BBFC are likely to alter the current appreciation by the police, the public and the Director of Public Prosecutions as to what is likely to deprave or corrupt and therefore be amenable to the law. This is really the crux of the matter and the starting point for the legislators. The relationship between the proposed Bill and the existing provisions of the Obscene Publications Act with the problematical "test of obscenity" is an equally critical point for the police.

As things stand at the moment, the question still remains whether the sale etc. of a certificated video will free the retailer or shopkeeper from the risk of prosecution under the Obscene Publications Act.

/Continued...

The question arises whether a video which is certificated can still be obscene within the terms of that Act.

If, as seems to be the case, certification is merely intended to control and restrict the sale of videos to categories of people of a certain age rather than to control and prevent their being viewed by people who might be corrupted, then little will be achieved by the legislation unless actionable obscenity in the material is removed.

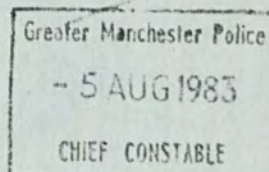
If, on the other hand, it is intended to take the opportunity not to certificate videos containing material of the kind now amenable to prosecution under the Obscene Publications Act, then the position will be much improved.

If, however, the emphasis goes the other way and the certification of material now said to be obscene frees shopkeepers and retailers from the risk of prosecution, then the problem will be very much worse.

I have already advised you that at the moment films certified by the BBFC and shown in the controlled environment of cinemas are still liable to seizure (and are seized) as objectionable videos and successfully prosecuted under the Obscene Publications Act. Unless, therefore, different criteria are applied to videos then this situation will remain.

It seems to me that an opportunity has now presented itself to clearly establish an acceptable threshold beyond which all offending material would be effectively banned or prohibited rather than merely restricted by the application of various conditions.

Unless this is done I fear that too little will be achieved by the proposed Bill and a number of consequential difficulties could arise. I say this because I am sure that the manufacturers of the most depraved videos and films, given the enormous financial backing they receive and the profits available, will find some way to circumvent the legislation as currently envisaged.



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August 9, 1983

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Re: Effects Of Cable Television

Dear Mrs. Whitehouse:

I am writing to you at the request of Hinson McAuliffe, my friend and former employer, who asked me to supply you with information regarding the effects of cable television on our society. Mr. McAuliffe has requested that I inform you that he will be writing to you, but only regarding the cable television situation in Georgia.

Because the appearance of explicit sexual activity on cable television is a recent occurrence, the "effects" of this kind of activity are difficult to document; however, I believe that I can make some observations that will be helpful.

(1) There is a relationship between pornography and sex crimes. We are better able to document this relationship today, because of studies such as the one performed by Lt. Darrell Pope of the Michigan State Police, which demonstrated that of 38,000 sexual assault cases on file, 41 percent involved pornography just prior to the act or during the act.

(2) During the past decade, the traditional family has become less common. One-parent "families" are on the increase in the United States. (see enclosed articles)

(3) Veneral disease has reached epidemic proportions. "Herpes" is out of control, and the homosexual population of our country has invented a deadly new disease known as "AIDS" for which there is no cure. (see enclosed article)

(4) The U.S. now has one of the highest teen-age birth rates in the world. More than 1,110,000 teen-age girls a year are getting pregnant in the U.S. Teen-age girls got 434,000 abortions in 1978, and accounted for 31 percent of all abortions and 46 percent of out-of-wedlock births. A total of 554,000 babies were born to teen-age mothers in 1978, more than half of whom were not married.

Mrs. Mary Whitehouse
August 9, 1983
Page 2

(5) Child pornography is a problem of explosive dimensions in the U.S., and the relationship between child pornography and sex crimes involving children is irrefutable. (see enclosed materials)

(6) The relationship between the pornography industry and organized crime in the U.S. is documented by numerous law enforcement studies. (these materials should already be in your possession)

(7) Films that have been found obscene and in violation of the law on the local level in pornographic bookstores and theatres are now being distributed nationally into millions of homes by means of cable and subscription television. (see enclosed articles)

While statistical data is presently unavailable, I believe the following conclusions are warranted in light of the above:

(1) The presence of explicit sexual activity on cable television will cause further erosion of community standards of morality and decency. In my work as a trial lawyer, I have observed an increased tolerance among our population for pre-marital and extra-marital sex, homosexuality, and every form of sexual perversion imaginable. This will undoubtedly result in even higher rates of illegitimate births, abortions, venereal disease, etc.

(2) Sex crimes are likely to increase as the availability of pornography and child pornography increases.

(3) The traditional family will continue its demise.

(4) The availability of child pornography will increase as community standards decline.

(5) Organized crime will profit from this new market for their products, and these profits will be used to support other organized crime activity.

(6) Society will be forced to use our tax dollars to pay for: abortions; health care for illegitimate children; research to discover cures for new and existing forms of venereal disease; the investigations of sex crimes and the incarceration of sex criminals; birth control for teen-agers and indigent persons; etc.

Mrs. Mary Whitehouse
August 9, 1983
Page 3

In conclusion, Mrs. Whitehouse, as the pornography industry distributes its goods by cable and video cassette into the homes of this country, it is obvious that we will witness a worsening of all of the many problems that already have been attributed to pornography and the "sexual revolution." I hope that the material enclosed will be helpful. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

Paul C. McCommon III

Paul C. McCommon, III
Legal Counsel

PCM/lar

Enclosures



QUEEN ANNE'S GATE LONDON SW1H 9AT

10 October 1983

Dear Mrs Whitehouse,

Thank you for your further letter of 5 September about the legislation on obscenity and Mr Graham Bright's Bill on Video Recordings.

I fully understand your very deep concern about the availability of pornographic material in our society. What is, I think, at issue is the practicability of further comprehensive legislation in this field, given the wide differences of opinion that exist on the direction such legislation should take.

As I made clear in my earlier letter, I certainly accept that there are inadequacies in the Obscene Publications Acts. However I do consider it would be an exaggeration to describe them as ineffective; convictions continue to be secured under section 2 and forfeitures ordered under section 3 and, perhaps more importantly, the threat of prosecution continues to hang over those who deal in pornographic material - which includes violence. Furthermore, these Acts do not stand on their own; they are buttressed by a good deal of legislation dealing with particular areas of concern.

We must not underestimate the very real difficulties in the way of securing even broad agreement about the way in which these Acts should be reformed. It is my firm view that there would be widely diverging and strongly held views within Parliament over this. I must emphasise, moreover, that I would fully expect these views to diverge even within political parties. It is the usual practice on matters so closely affecting issues of individual conscience to seek to allow Members to vote as they wish. Given that I do not perceive a basis of general support within Parliament for a specific approach to this problem, I do not think that, at present, a general reform of the Obscene Publications Act is practicable.

It is entirely consistent with our manifesto commitment that, in this situation, we should concentrate on those areas which give rise to particular difficulties and concern and which can be tackled without attracting the sort of problems to which I refer above. As you know, we have been very active on this front over the last few years and Mr Bright's present proposals are an excellent example of this approach. It deals with a specific problem of great concern to many people and it has, I believe, a good prospect of receiving Parliamentary approval.

On the detail of the proposed Bill, you suggest that the body to be designated to carry out classification should be issued with guidelines on the type of material to be excluded from classification. I have given further thought to this since our meeting and I am afraid my view still remains that I do not think it would be possible to devise a list which was sufficiently precise and comprehensive and

/which avoided

Mrs M Whitehouse, CBE

which avoided the need for subjective interpretations. Not only would such an approach risk attracting the problems associated with the Obscene Publications Acts, there is a very clear risk that the inclusion in the Bill of such a formula would provoke so much disagreement and argument as to prejudice the prospects of its enactment. It is, of course, intended that the Secretary of State should have power to remove the designation from the classification body if that body failed to discharge its responsibilities properly and, in my view, this will provide the necessary element of public accountability.

Finally, I am grateful to you for letting me see a copy of the letter sent to you recently by Mr Hinson McAuliffe which I have read with interest. I do, of course, fully share your concern that cable television should be properly controlled. It is for this reason that we have made clear in our White Paper that all cable channels will be subject to the same good taste and decency rules as the existing broadcasting authorities and the same obligations to have regard to the programmes shown when large numbers of children and young people are likely to be watching. In addition, cable channels will be subject to the Obscene Publications Acts. This is an important extra safeguard.

Sincerely,
Leon Britton

**Poor quality
text due to the
nature of the
material.**

**Image quality is
best available.**

COUNCIL
OF EUROPE



CONSEIL
DE L'EUROPE

PARLIAMENTARY ASSEMBLY

Doc. 5013 - E

Extracts from:

A CULTURAL AND EDUCATIONAL APPROACH
TO THE PROBLEM OF VIOLENCE

SWEDEN See pages 133, 134, 135, 136
DOMENICO MECCOLI pages 146 & 147.

Report
of the Committee on Culture and Education

Rapporteurs :
Mrs Anér, MM. Aano, Atkinson and Mayoud

STRASBOURG
1983

Stig Svård

Video enters the stage. The appointment of a commission

As in other countries, video was first used in Sweden as an aid in education and training in a number of different contexts. Educational television programmes were - and still are - taped and used in public schools and in adult education classes and study groups. In hospitals, specially produced video programmes are used to train personnel and to instruct patients in the care of their illnesses. Within business and industry, video is used to train personnel, to explain company policy, to inform about new products, and for marketing purposes. Subsidiaries in Sweden of multinational corporations are connected to their world-wide video networks, and some Swedish owned companies have established their own networks. Various branches of the state administration are using video both in their internal and their external information activities.

When, in the early seventies, the old open reel machines gave way to video cassette recorders, it became obvious that they would be used not only in the institutional field but also for entertainment purposes in the home.

A very rapid growth of the market was expected. Anticipations of a widespread use of video as a means for home entertainment triggered a debate on the merits and dangers of the new medium.

Some were worried and feared that the public might become uncritical, passive consumers of sports programmes, light entertainment, violence and pornography. This was expected to lead to more isolation, making people less likely to take part in social and political action. It was also thought that the well educated would choose programmes of a higher quality than the less well educated and that this would tend to conserve cultural and educational differences between social groups. There was also concern that home video might have harmful effects on children, both because of the amount of viewing in which they might indulge and the kind of programmes to which they might be exposed. It was suggested that the state should take action to control the output of programming.

Other observers claimed that it was desirable that through the new medium people be given a wider freedom of choice than the two TV channels which the Swedish Broadcasting Corporation offered. Adult persons, it was argued, should be allowed to take responsibility for their own viewing habits, and parents should be responsible for what their children saw. The state should ensure that good programmes were available. Video programmes shown publicly should be subject to the same rules as films shown in cinemas. It was claimed that if the state should try to control or limit the output of video programmes for private use this would be to tamper with the principle of freedom of expression, which must have the freedom to receive information as its counterpart.

In 1977, the nonsocialist government, which had taken office in the preceding year, appointed a commission consisting of five members from all parties in the Swedish Parliament except the Communists, to make recommendations concerning the use of video technology within the framework of the overall cultural policy adopted by parliament three years earlier. The terms of reference of the commission recognised that videograms have considerable potential for cultural activities, in the field of education, and as a means to inform and involve the citizens. "One must not, however," it was added, "ignore the risk that videograms - like any other new mass medium - may also have less desirable effects with respect to cultural policy in the longer term. This might be the case, if for example, videograms were to become a mass market item featuring programmes produced with no other than purely commercial ambitions." The commission was to give special attention to "measures designed to safeguard freedom of expression and to secure the practical preconditions for the exercise of that freedom". The needs of certain groups were to be accorded special consideration. Among those were children, merchant sailors, Swedes living abroad, and certain handicapped groups. In order to ensure the availability of programmes of good quality, the commission was to give special attention to the possibility of making television programmes produced by the Swedish Broadcasting Corporation available as videograms.

The growth of home video

The growth of the home video market was much slower than the industry had expected in the early seventies, but in 1980 the market took off. During that year, the number of video recorders in Sweden more than doubled, rising from 60,000 to 140,000. By the end of 1981, the total was about 300,000, representing 9% of all homes with a TV set. That is probably the highest penetration in any country except Japan. This year, however, the market has grown much more slowly, and the industry hopes to sell roughly the same number of machines as last year, thereby reducing the rate of increase from 110% in 1981 to about 50%. Even this may turn out to be too optimistic an estimate.

It is even more uncertain what kind of growth to expect in the years ahead. Sometimes comparisons are made with the spread of other electronic media. If the number of video recorders should increase at the same rate as colour TV sets in the early years of that technology, there will be 1.5 million video players in the country by the end of 1985, representing 41% of the homes with a TV set. If, on the other hand, the same number of video recorders are sold in the next few years as in 1981, the total will be around 900,000 at the end of 1985, representing 24% of all TV homes. The Video-Commission said, in 1981, that probably the real outcome would be somewhere between those two estimates. Present market trends indicate, however, that even the lower figure may not be reached in 1985.

At the outset, home video recorders were used almost exclusively for recording television programmes for later use (time shift). The rapid increase in the sale of video recorders starting in 1980 created a market for prerecorded cassettes. Initially a large share of the titles available were films of a deplorably low quality, containing much pornography and violence, often mixing sex and violence.

According to Swedish law, a film may not be shown in public unless it is approved by a special agency, the State Cinema Bureau. Such approval is not to be accorded to films or sequences which may have a brutalising or a harmfully excitatory effect or which may seduce to crime. Neither is the Bureau to approve the public showing to children of films which may be psychologically harmful to children. These censorship rules do not apply to films shown privately or to "trapped societies". Since the law was enacted before the advent of video it does not apply to moving pictures recorded on magnetic tape or on discs.

Thus the market of prerecorded cassettes could grow without the restraints imposed on cinema film by the rules of censorship. In December 1980 a television programme, "Who needs video?", exposed the availability of some video films with scenes of brutal violence. For some time "The Texas Chain-Saw Massacre" almost became a synonym of video. Public indignation requested new legislation to restrain violence in video. This affected the work of the Video Commission, which will be dealt with in the next section of this paper.

At the end of 1980 the market of prerecorded cassettes included between 600 and 700 titles. The Video Commission found that some 14% of those contained scenes with "brutal, sadistic violence". Since then, the market has grown rapidly. Some of the most violent films have been withdrawn and a large number of films that comply with the standards set by the rules of film censorship have been added. A study made by the Swedish Broadcasting Corporation in March 1981 showed, however, that video recorders were still primarily used for time shift. During one week, 75% of the programmes viewed in homes with a video player had been recorded off-air. In 1982 the corresponding figure was 63%. Prerecorded cassettes accounted for the rest.

Among programmes recorded off-air, TV fiction and entertainment accounted for about 20% each, children's programmes and feature films for 15% each. Of the persons interviewed only 8% reported they had seen a TV programme dealing with political or social matters on video, and none had seen a nature or science programme. Those having viewed prerecorded cassettes the day before the interview mentioned about 250 titles. 10% of those are Swedish productions, 95% of them being children's films. Many of the titles mentioned by male respondents between 9 and 24 years of age are adventure films and Westerns. Video viewers above 24 tend to see feature films of a better quality.

The average TV viewing time in Sweden is 82 minutes a day. For video owners it is 80 minutes. This marginal difference shows that, on the whole, video owners do not see TV less than the average Swede. Half

the video viewing takes place before 6 o'clock in the evening, ie before TV transmissions start. It seems, then, that video viewing does not replace TV viewing but is added to it. That runs counter to the expectations of some observers. We do not know on what kind of activities video is infringing.

It should be remembered, however, that video still accounts for a rather small share of the overall media mix. On an average day only about 5% of the total population see video. About two thirds of video owners turn on their players once a week (1).

The recommendations of the Video Commission

The Video Commission covered a wide range of aspects of the new technology. It made recommendations on, among other things, the distribution of Swedish TV programmes on video cassettes to Swedes living abroad, the use of video as a communications medium for migrant workers from abroad, the distribution of videograms through public libraries, the use of video for the benefit of the deaf, the establishment of media workshops in order to stimulate local communication, the development of video art, and the use of video in education. Altogether in its four years of work the commission published six reports, totalling about 1,300 pages. In this section I shall confine myself to presenting its discussion of violence in video and the measures needed to restrict it.

At an early stage of its work, the commission asked a sociologist, Dr. Kerstin Elmhorn, to make a survey of research available in different countries on the way children are influenced by film, television and video. The result was published under the title Film on TV i barnens värld ("Film and TV in the world of children"). It partly deals with the effects of violence. From this report and other evidence available the commission in its final report, Video, drew the following conclusion: "Viewing TV programmes which repeatedly use violence for entertainment purposes and treat it in a positive way will result in influencing our attitudes so that violence is accepted. This, in turn, may lead to antisocial attitudes and asocial and maybe criminal behaviour."

Discussing the supply of prerecorded cassettes containing frequent scenes with violence available on the consumer market, the commission wrote: "Crude, speculative descriptions of violence in videograms and films are in glaring contrast to the ethical and humanistic values which are fundamental in our society." At the same time, the commission was aware that freedom of expression is another basic value, which enjoys the protection of the Swedish Constitution. Thus there is a conflict, which calls for careful solution.

- (1) The report on video viewing in 1982 from the Swedish Broadcasting Corporation has not yet been published. Hopefully it will be possible to give a better account of its results at the hearing in Assisi. By then, other reports on video in Sweden may also be available.

In Sweden, there is a rather general consensus on three points that are of importance in this context:

1. The portrayal of factual violence, eg in reporting from war and unrest in different parts of the world, must be permitted. It may be regarded as an aspect of the freedom of information which is essential in the forming of public opinion. One must, however, be aware that even portrayals of this kind of violence may be harmful. Studies by Dr. W A Belson in London indicate that most people can stand a certain amount of violence without being influenced negatively by it but that they suddenly reach a limit where they start using violence.
2. In works of art the portrayal of violence may be justified or even necessary because it helps us to understand our world and ourselves. Obviously it is difficult to draw the line between what is justified on artistic grounds and what is not.
3. Films and videograms that are to be shown to children must conform to stricter standards than those seen by adults. This principle was easy to uphold when films were shown only in cinemas where age limits could be enforced. It was undercut when films started to be shown on TV and when prerecorded video cassettes became generally available, since in the living room no age limits can be enforced.

The Video Commission found that there are at least three different ways to curb the distribution of films and videograms with violence:

1. The adoption by the industry of self-imposed ethical standards

There have been attempts initiated by the industry itself to reach an agreement on such guidelines. The Video Commission tried to assist in this process and invited representatives of the film and video industry and the Swedish Broadcasting Corporation to a hearing in March 1981. The Secretariat of the Commission made the suggestion that wholesale distributors of videograms should sign an agreement on certain ethical guidelines and that, furthermore, they should undertake to distribute videograms only through retailers who had promised not to carry any videograms from companies not having signed the agreement. At that time, however, it was not possible to reach such an agreement. The representatives of the film industry wanted to wait and see if another Government Commission might recommend the abolition of censorship of films for adults. Deliberations on ethical standards continued, however, even after the Video Commission had completed its work. Largely because of the pressure of public opinion, ten major videogram distributors in November 1981 signed an agreement to conform to the standards of film censorship. A number of companies, however, have so far refused to join it.

2. Censorship

In Sweden, films that are to be shown in cinemas must first be inspected by the Cinema Bureau (see the preceding section). Demands have been made that this censorship be extended to comprise even films and videograms

which are made available for private use. The Video Commission discussed this matter in some detail. For a number of reasons, it rejected the idea of such an extension of obligatory censorship.

It would be in conflict with the principle of freedom of expression, the Commission said, adding that it was doubtful if it would be compatible with the Constitution. Furthermore, obligatory censorship of films and videograms for private use would require a considerable enlargement of the Cinema Bureau because of the number of titles that would have to be inspected. The Commission also referred to the fact that films shown on TV are not subject to censorship since it was considered important to give public service radio and television an independent position in Swedish society. The basic programme rules are laid down in a contract between the state and the Swedish Broadcasting Corporation, which allows considerable freedom of expression in those media. The Commission asked if it would be consistent to require films and videograms shown in the home to be inspected in advance by a government agency while TV programmes seen in the home were not subject to such censorship. Thus the independent position of the Broadcasting Corporation might be prejudiced. Finally, the Commission pointed out that obligatory censorship of films and videograms for private use would only be partially effective, since anyone would be able to buy uninspected video cassettes abroad, which could then be lent to friends and neighbours.

3. Legislation on content, with violations prosecuted "after the event"

In June 1981, a law was adopted which prohibits the commercial renting or showing to children below 15 of films and videograms with detailed and realistic portrayals of violence or threats of violence to human beings or animals. This year, parliament passed another law prohibiting the distribution to adults of films and videograms containing indiscreet and prolonged portrayals of brutal or sadistic violence. Violation of those laws will be prosecuted "after the event".

This was in line with the recommendations of the Video Commission, which in its final report suggested that the standards now governing film censorship be used to formulate a new law determining the kind of content which is not to be permitted in films and videograms. It should be the task of the courts to decide when this law is violated. Since the border lines between different media are becoming more and more hazy, it might be possible to extend a law of this kind to include several media - films and videograms, whether shown in public or distributed for private use, and television.

The procedure for deciding whether this law has been violated should be the same as in cases involving violations of the law on the freedom of the press. One important feature of this procedure is that for each publication there has to be a publisher who bears the sole responsibility for what appears in the publication. There seems to be no difficulty to transfer this requirement to films and videograms.

The Commission said that it is up to the publisher to judge whether the contents of a film or a videogram conform to the law or not. It ought to be in the interest of the industry to establish an advisory agency to which a publisher can turn in doubtful cases. The Commission also suggested that youth organisations and organisations of professionals who work with children might feel the need to create some kind of agency to review videograms that appear on the market and provide them with a declaration of content as a service to parents and teachers.

Most of the recommendations of the Video Commission have not yet been acted on by the Government. Matters dealing with censorship and other questions related to freedom of expression are being considered by a special commission which is expected to present its recommendations in the fall of 1982.

4.7.

VIOLENCE AND FILMS

Domenico Meccoli

1. INTRODUCTORY REMARKS

a. Violence is said to be one of the two basic themes in films, the other being sex. The explanation of this phenomenon (and its success) lies, according to some psychologists, in the fact that violence and sexual freedom, which were natural in primitive man, were as though stifled with man's gradual adoption of the rules of life in society and survive as kinds of unconscious frustration.

b. Nowadays violence is a part of everyday life. The mass media give us a daily diet of wars, guerrilla activities, coups d'état, repression, outrages, slaughter, robbery and assaults that gradually induces a state of habituation from which individuals and their peer groups are roused only when they are directly concerned. And habituation is the parent of indifference, which turns the individual into a mere spectator of the sufferings of others.

For the same reasons and through the same channels a similar impact is made by non-sanguinary forms of violence ranging from those involving corruption and fraud to those such as advertising techniques that are in a sense conditioned by man's own behaviour.

c. Instead of improving and developing the individual's critical faculties the continuous, incessant, indiscriminate and contradictory torrent of audiovisual information ends up by diminishing them and fostering the decline and degradation of moral standards by increasingly blurring the distinction between good and evil, right and wrong, truth and falsehood. We all know that no news is good news, and public information channels are no exception to this rule.

d. The mass media have promoted and spread ostentation and the idea of the hero at all levels. (In the case of the cinema, Chaplin sensed this in no time in one of his earliest slapstick films, "Kid Auto Races" (1914), in which he is seen repeatedly showing off in front of a motion-picture camera that is filming a small-car race.)

e. The mass media themselves become instruments of violence when, as happens more and more often, they invade privacy and when they are controlled and directed by powerful political and economic interests.

2. THE CINEMA

In these circumstances, it is strangely enough the cinema rather than the other media that is held to be guilty of fostering violence, and this regardless of the fact that:

- a. motion pictures, even when based on real events, are fruits of the imagination and the spectator is aware of this;

- b. film production is conditioned by the public who are free to pay or not to pay for a ticket to see a particular film: indeed at the present time there has been a marked drop in the number of films of violence and box office receipts indicate a clear preference for films that amuse or offer opportunities for escape (eg. space adventures). In other words, the market reacts on its own account, opening or closing itself automatically to one genre or another, and therefore to violence too. The natural intermediaries between the public and film producers - ie. exhibitors and distributors - can speed up or retard this process but cannot prevent it.

At all events, it is a moot point whether violence in films is harmful. There are no scientifically irrefutable studies of a causal relationship. Psychologists and sociologists are divided, some claiming that the portrayal of violence acts as an incitement to copy it and others arguing that it is cathartic and liberating. Nevertheless even the latter group recognises that it may have a pathological influence on subjects with a predisposition to aggressiveness.

But even if negatively suggestible subjects are a minority, this does not mean that there is no need to consider the desirability of correctives, especially when the cineast's sole aim is, for reasons of pecuniary gain, to pander to the public's worst instincts or when his own moral and creative limitations render him incapable of so depicting violence that its inherent evil and the pain it causes are understood.

The following should be completely proscribed:

- detailed ("technical") portrayal of acts of violence and of crime generally;
- brutality;
- scenes of torture and gratuitous sadism;
- apoligias of violence
- incitement to hatred.

But how can this be done? By the film industry setting up its own supervisory boards to ensure observance of a freely accepted code of practice? By state censorship?

Film industry's own supervisory boards: these have proved ineffective. Having no legal status, they cannot impose obligations on non-members and this, in short, means that their decisions are disregarded by the members themselves.

Censorship: this instrument is discredited because of its inevitable subservience to the political whims of governments and always constitutes a restriction of freedom. If adults are considered intelligent enough to vote, ie. to choose their own representatives to conduct affairs of state,

they must also be reckoned sufficiently intelligent to choose and judge a film without the intervention of some intermediary body. Properly structured censorship is, on the other hand, essential for deciding which films should be classed as unsuitable for minors. Such films would certainly include those containing incitement to hatred and violence of the kinds mentioned earlier.

An agreement along these lines between all Council of Europe member states would be desirable, and not only in respect of films screened in public cinemas but also in respect of those shown on television, a much more widespread and less easily controlled medium.

The magnitude of the problem is not fully appreciated and yet it is one that is going to get steadily worse as a result of technological developments which will make dissemination easier.

Furthermore, not all the regulations in force give the problem of violence the attention it deserves. (On the other hand, we know that there are countries with totalitarian regimes in which the film industry is brainwashed into exalting higher ideals and banishing violence, though this does not prevent such countries from resorting to violence to promote their own interests and impose their own will.)

If common action is to be taken on the essential principles, it would be important for the Assisi hearing to have an up-to-date comparative study of the attention paid to violence in the various European countries' statutes and regulations.

3. CONCLUSIONS

Freedom is the principal prerequisite of the search for truth, but truth cannot be established without dialectics and the dialectical process cannot ignore violence, which is one aspect of reality. Unfortunately, in most cases, violence becomes purely and simply a spectacle to satisfy the public's depraved tastes and in so doing contributes to deception and falsehood rather than to truth. This applies as much to the other media as to the cinema, their interrelationship being obvious.

How can we tackle and discourage this kind of aberration?

Mention has already been made of the possibility of a common agreement to control the screening and broadcasting of films classed as unsuitable for minors and of the inclusion of violence among the deciding factors for such classification. Furthermore, pressure might be brought to bear on economic interests, for instance by requiring states not to give financial aid to the production of films (for cinemas or, in most cases now, for both cinemas and television) that are characterised by gratuitous violence.

But an urgent appeal ought to go out from St Francis' native land and in his name for reflection on the media's moral responsibility, asking their staffs to show respect for man and for human life and, at the same time, reminding parents of the need and of their duty to prevent their children from seeing any scenes of violence that may be shown on television. The effects of repressive measures are partial and transitory, and private interests eventually find loopholes and ways round them. Generally speaking, therefore, the greatest emphasis needs to be placed on developing in children from their earliest schooldays a critical awareness of the positive and negative features of the mass media.

From Ch. Constable James Anderson. Greater
Manchester Police. This followed a meeting between
the group representing Chief Constables of which
Mr Anderson was Chairman and Mr W.J. Bohan at
5th August, 1983. Re Home Office.

Control of Video Cassettes

I was very grateful for the opportunity yesterday to meet you and your colleagues at the Home Office to discuss the above matter. I appreciate that a note is being prepared about it which will presumably identify those areas which require further enquiry and more detailed discussions.

However, I would like to emphasise two particular aspects which cause me some concern. First, the proposal that the British Board of Film Censors should be the 'designated body'. For the reasons I explained I am quite sure that this decision should be reconsidered.

Second, is the problem of classification and certification. This is perhaps the most difficult and crucial issue of all. Everything will depend from the outset on the criteria for classification employed by the BBFC and the standards they choose to set. If, as was suggested at our meeting, the worst kind of horror film or video nasty is unlikely to receive a certificate of any kind from the BBFC, then some progress towards solving the problem we face will have been achieved. In that sense, the circulation of such material as a normal commercial venture will be almost totally nullified but the freedom to manufacture it will remain.

I noted your comment that no decisions have yet been taken on the nature of the classifications which will be adopted or upon whether the same classification will apply, without distinction, as between the high street cinema or cinema club on the one hand and the countless video outlets on the other.

A matter of paramount importance to the police is the question whether or not the BBFC are likely to alter the current appreciation by the police, the public and the Director of Public Prosecutions as to what is likely to deprave or corrupt and therefore be amenable to the law. This is really the crux of the matter and the starting point for the legislators. The relationship between the proposed Bill and the existing provisions of the Obscene Publications Act with the problematical "test of obscenity" is an equally critical point for the police.

As things stand at the moment, the question still remains whether the sale etc. of a certificated video will free the retailer or shopkeeper from the risk of prosecution under the Obscene Publications Act.

/Continued...

The question arises whether a video which is certificated can still be obscene within the terms of that Act.

If, as seems to be the case, certification is merely intended to control and restrict the sale of videos to categories of people of a certain age rather than to control and prevent their being viewed by people who might be corrupted, then little will be achieved by the legislation unless actionable obscenity in the material is removed.

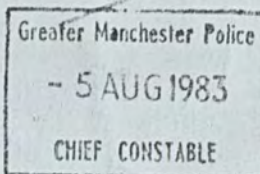
If, on the other hand, it is intended to take the opportunity not to certificate videos containing material of the kind now amenable to prosecution under the Obscene Publications Act, then the position will be much improved.

If, however, the emphasis goes the other way and the certification of material now said to be obscene frees shopkeepers and retailers from the risk of prosecution, then the problem will be very much worse.

I have already advised you that at the moment films certified by the BBFC and shown in the controlled environment of cinemas are still liable to seizure (and are seized) as objectionable videos and successfully prosecuted under the Obscene Publications Act. Unless, therefore, different criteria are applied to videos then this situation will remain.

It seems to me that an opportunity has now presented itself to clearly establish an acceptable threshold beyond which all offending material would be effectively banned or prohibited rather than merely restricted by the application of various conditions.

Unless this is done I fear that too little will be achieved by the proposed Bill and a number of consequential difficulties could arise. I say this because I am sure that the manufacturers of the most depraved videos and films, given the enormous financial backing they receive and the profits available, will find some way to circumvent the legislation as currently envisaged.



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August 9, 1983

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Re: Effects Of Cable Television

Dear Mrs. Whitehouse:

I am writing to you at the request of Hinson McAuliffe, my friend and former employer, who asked me to supply you with information regarding the effects of cable television on our society. Mr. McAuliffe has requested that I inform you that he will be writing to you, but only regarding the cable television situation in Georgia.

Because the appearance of explicit sexual activity on cable television is a recent occurrence, the "effects" of this kind of activity are difficult to document; however, I believe that I can make some observations that will be helpful.

(1) There is a relationship between pornography and sex crimes. We are better able to document this relationship today, because of studies such as the one performed by Lt. Darrell Pope of the Michigan State Police, which demonstrated that of 38,000 sexual assault cases on file, 41 percent involved pornography just prior to the act or during the act.

(2) During the past decade, the traditional family has become less common. One-parent "families" are on the increase in the United States. (see enclosed articles)

(3) Veneral disease has reached epidemic proportions. "Herpes" is out of control, and the homosexual population of our country has invented a deadly new disease known as "AIDS" for which there is no cure. (see enclosed article)

(4) The U.S. now has one of the highest teen-age birth rates in the world. More than 1,110,000 teen-age girls a year are getting pregnant in the U.S. Teen-age girls got 434,000 abortions in 1978, and accounted for 31 percent of all abortions and 46 percent of out-of-wedlock births. A total of 554,000 babies were born to teen-age mothers in 1978, more than half of whom were not married.

Mrs. Mary Whitehouse
August 9, 1983
Page 2

(5) Child pornography is a problem of explosive dimensions in the U.S., and the relationship between child pornography and sex crimes involving children is irrefutable. (see enclosed materials)

(6) The relationship between the pornography industry and organized crime in the U.S. is documented by numerous law enforcement studies. (these materials should already be in your possession)

(7) Films that have been found obscene and in violation of the law on the local level in pornographic bookstores and theatres are now being distributed nationally into millions of homes by means of cable and subscription television. (see enclosed articles)

While statistical data is presently unavailable, I believe the following conclusions are warranted in light of the above:

(1) The presence of explicit sexual activity on cable television will cause further erosion of community standards of morality and decency. In my work as a trial lawyer, I have observed an increased tolerance among our population for pre-marital and extra-marital sex, homosexuality, and every form of sexual perversion imaginable. This will undoubtedly result in even higher rates of illegitimate births, abortions, venereal disease, etc.

(2) Sex crimes are likely to increase as the availability of pornography and child pornography increases.

(3) The traditional family will continue its demise.

(4) The availability of child pornography will increase as community standards decline.

(5) Organized crime will profit from this new market for their products, and these profits will be used to support other organized crime activity.

(6) Society will be forced to use our tax dollars to pay for: abortions; health care for illegitimate children; research to discover cures for new and existing forms of venereal disease; the investigations of sex crimes and the incarceration of sex criminals; birth control for teen-agers and indigent persons; etc.

Mrs. Mary Whitehouse
August 9, 1983
Page 3

In conclusion, Mrs. Whitehouse, as the pornography industry distributes its goods by cable and video cassette into the homes of this country, it is obvious that we will witness a worsening of all of the many problems that already have been attributed to pornography and the "sexual revolution." I hope that the material enclosed will be helpful. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

Paul C. McCommon, III

Paul C. McCommon, III
Legal Counsel

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Enclosures

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PRIME MINISTER

We are arranging for you to see the Home Secretary later this week to talk about obscenity legislation and I have passed on to him your views. You mentioned that Sir Brian Cubbon might also be invited. Do you want to confirm this or to confine it to the Home Secretary? Much of this has to do with political feel and it is not an issue in which Brian Cubbon has been closely involved.

T. FLESHER

18 October 1983



10 DOWNING STREET

From the Private Secretary

18 October 1983

Thank you for your letter of 17 October with which you enclosed briefing for the Prime Minister's meeting with Mrs. Mary Whitehouse. Following her conversation with Mrs. Whitehouse, the Prime Minister has given consideration to the issues set out in the brief. She remains unconvinced by the Home Office approach to the question of obscenity legislation in general and Mr. Graham Bright's Bill in particular. She agrees with Mrs. Whitehouse that piecemeal legislation on obscenity is unsatisfactory and that the Government ought to be bringing forward proposals for a general reform of the Obscene Publications Acts, which she believes to be ineffective. The Prime Minister recognises that this has traditionally been a matter for Private Members' legislation but believes that the time is right for a Government initiative which, in her view, would command a majority of the House of Commons.

On Mr. Graham Bright's Bill on video recordings, the Prime Minister has considerable sympathy with the view that controls should be based on a 'list' approach rather than a classification approach. She considers that there is a difference in kind between cinema films and video recordings which would justify a difference of approach. For example, while there are stringent controls on films classified Restricted (18) which guarantee that they will not be seen by children, no such guarantees exist for video recordings when they are shown in the home. Mrs. Thatcher accepts that the 'list' approach is not perfect; she believes nevertheless that it would catch a far greater proportion of the offensive material which is at present freely available. In this context she has noted that such an approach is embodied in legislation in Sweden and certain American States and has asked if there is any evidence of the effectiveness of that approach.

Even under the licensing system proposed under Mr. Bright's Bill Mrs. Thatcher considers that a more stringent approach could be taken. In this context, she wonders what arguments led the Home Secretary to reject the proposal that the Home Office should issue guidelines to the licensing body for video recordings envisaged in Mr. Bright's Bill.

/ The Prime

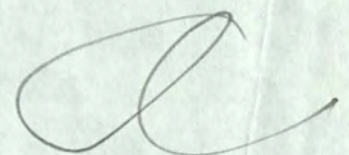
CONFIDENTIAL

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The Prime Minister would be grateful for an urgent discussion with the Home Secretary on these issues and we shall be in touch to arrange a time during the course of this week.

Timothy Flesher

Hugh Taylor, Esq.,
Home Office.

A handwritten signature in dark ink, consisting of a large, stylized initial 'R' followed by a long, sweeping horizontal stroke that ends in a small hook.

CONFIDENTIAL

PRIME MINISTER

Your Meeting with Mrs. Whitehouse

Attached is rather voluminous briefing from the Home Office for your meeting with Mrs. Whitehouse tomorrow. The main points which it makes are as follows:-

Mr. Bright's Bill

The Bill which Graham Bright is introducing to control video films proposes a licensing system for video recordings which will make it an offence to sell or to rent an unlicensed video. The licensing function will be carried out by the British Board of Film Censors. Films classified restricted (18) would only be sold or rented from premises to which those under 18 had no access.

Obscenity Laws

The Home Secretary's view is that while the obscenity laws are deficient, at present there is no consensus for new legislation, especially since this area has traditionally been regarded as one for a free vote of the House. Given this he thinks that it is better to make progress in areas e.g. video recording, where there is general support for legislation.

Mrs. Whitehouse's Approach

Mrs. Whitehouse and her organisation would prefer a radically different approach. They want new obscenity legislation which would define what was prohibited by a list of specific activities the depiction of which would be illegal. Mrs. Whitehouse is opposed to a licensing arrangement since she believes that the licensing bodies have been unduly lax.

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The Home Secretary's objection to the so-called list approach is that it is impossible to ban the depiction of certain acts per se. Otherwise the extremely violent scenes in e.g. Macbeth or King Lear would have to be banned. The criterion of "offensiveness" has to be introduced, therefore, even under the system proposed by Mrs. Whitehouse, which as we know is a lawyer's paradise. Moreover, by listing that which is illegal we would automatically legalise that which is unlisted.

The real problem I suspect is that I rather doubt that there is a Parliamentary majority for Mrs. Whitehouse's approach (or indeed any other) unless the Government broke with the traditional approach and introduced its own Bill.

17 October 1983

E.R.

THE MINISTER'S MEETING WITH MRS WHITEHOUSE: SUMMARY OF BACKGROUND AND LINE TO TAKE
 (Full briefing note attached)

1. Mrs Whitehouse is likely to make the following main points in discussion:

(i) that piecemeal legislation on obscenity is unsatisfactory; *Agreed*

Agreed (ii) that general reform of the Obscene Publications Acts 1959 and 1964 is over-due: they are ineffective; and the "deprave and corrupt" test in the 1959 Act should be replaced by a "list" system setting out specific acts of violence and sexual activity or perversion, the depiction of which should be illegal;

(iii) that as far as the Video Recordings Bill is concerned:

(a) controls should not depend on "classification" by a body such as the British Board of Film Censors but on a general formula/"list" approach;

(b) she is critical of the British Board of Film Censors which, she feels, has presided over a decline in moral standards;

(c) if her proposed approach is not adopted, clear guidelines should be issued to the designated body on what material should be excluded from classification;

(d) "Restricted (18)" material should not be available on video because of her concern that children would gain access to it. (The "R (18)" classification was introduced by the BBFC last year for films of an explicit nature which, in their view, should be shown only under club conditions to people over 18.)

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The following points might be made in response:

- (i) that there is no immediate legislative opportunity for a major reform of the Obscene Publications Act, nor is the Government convinced that the necessary consensus for such reform exists;
- (ii) Mr Bright's Bill (details in paragraph 9 of briefing below) therefore offers a real and welcome opportunity to strengthen the law in a particular area of considerable current public concern;
- (iii) there is a real risk, however, that as a Private Member's Bill the measure will not succeed unless it commands wide-spread support;
- (iv) the difficulty with the approach suggested by Mrs Whitehouse is that on the one hand defining the formula and associated list is bound to be controversial and the more restrictive it is the more controversial it will be; and on the other hand (perhaps the strongest argument) because the formula or list would be 'exclusive', pornographers would be able to exploit any areas inadvertently omitted from the list or any vagueness in the formula. Getting the legislation right would therefore be a difficult, controversial balance which might not in the end prove effective. The virtue of the controls envisaged by Mr Bright is that they would operate directly on offensive material.
- (v) the BBFC are really the only organisation that can at present carry out effectively the classification role under the Bill. There are welcome signs that they accept the need for strict standards to be applied. If their standards become publicly unacceptable the Home Secretary would have power to remove the designation and make fresh arrangements;

E.R.

- (vi) issuing guidelines to the designated body on what material should be excluded from classification would represent a dangerous and highly controversial step towards government censorship;

- (vii) after sympathetic consideration, the Ministers' present view is that the Bill ought not to prohibit absolutely the supply of "R (18)" video recordings; but an important safeguard in the Bill would be that "R (18)" video recordings should be confined to premises to which people under 18 are not admitted.

REFORM OF THE OBSCENE PUBLICATIONS ACTS 1959 AND 1964

1. Mrs Whitehouse has for long argued that the Obscene Publications Acts 1959 and 1964 are ineffective and should be fundamentally reformed. The test of obscenity in these Acts is that the article concerned, if taken as a whole, has a tendency to deprave and corrupt persons who are likely to read, see or hear it, subject to a saving for those articles which are for the public good as in the interests of science, literature, art or learning. Mrs Whitehouse broadly favours the replacement of this test with a "list" system setting out specific acts of violence and sexual activity or perversion, the depiction of which would be illegal. In her letter to the Home Secretary of 15 September Mrs Whitehouse argues that, in view of the size of the Government's majority in Parliament, there is no reason why, given the political will, it should not be able to secure approval for such a measure.
2. Ministers have acknowledged that there are inadequacies in the Obscene Publications Acts. For example, it is probably impossible to apply literally the test of "deprave and corrupt". However, in their view, it is an exaggeration to say that the legislation is entirely ineffective. In 1981, the most recent year for which figures are available, there were 221 convictions, as well as a number of successful forfeiture proceedings under the Obscene Publications Acts; and the threat of prosecution hangs over those who deal in pornographic material. On the whole, much of the most extreme material seems to be caught by the Acts. Moreover, the Obscene Publications Acts should not be seen in isolation; they are buttressed by a number of other Acts dealing with specific areas of concern.
3. Mrs Whitehouse's concern, on the other hand, would seem to be first, that the general legislation ought to catch very much more material than it does at present; and ^{second,} that the specific pieces of legislation passed since 1979 dealing with indecent public displays, cinema clubs and sex shops, could be regarded as recognising the legitimacy of certain forms of publication or display (i.e. by merely controlling rather than banning them). What is fundamentally at issue is whether comprehensive new legislation of the kind Mrs Whitehouse seeks would work and, given the wide differences of opinion that exist on the direction of any new legislation should take, whether it is realistic to expect any such legislation to secure the approval of Parliament.

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The Home Secretary considers there would be very real difficulties in securing even broad agreement about the way the obscenity legislation should be reformed. His view is that there would be widely diverging and strongly held views on the form any general overhaul should take, and that any proposals for wide-ranging legislation whether in a more restrictive or more libertarian sense would be bound to stir up substantial opposition not only within Parliament and outside, but ^{possibly} also within the Conservative Party. There is a strong possibility that any proposed legislation would emerge from Parliament in a very different form than that in which it was introduced; and that such changes might well not be in the direction Mrs Whitehouse would wish.

4. For example, there would no doubt be some support for Mrs Whitehouse's broad approach. But others would favour reform along the much more liberal lines proposed in the Williams' Committee Report. Support for the Williams' Report's recommendations was by no means confined to a minority of libertarians; the police and a number of reputable religious and other groups also commented favourably. There would no doubt also be a variety of other positions as well as extensive debate on the detail of any proposals.

5. On matters so closely affecting issues of individual conscience, it is the usual practice to allow Ministers a free vote. This is not a conclusive consideration, but, taken in conjunction with the apparent lack of support for any specific approach to this problem, it suggests that a general reform of the Obscene Publications Acts is not practicable at the present. The Home Secretary has said, however, that he would not wish to rule out this possibility if circumstances were to change.

Present strategy

6. Ministers have tried to persuade Mrs Whitehouse, therefore, that it is not a matter of all or nothing. The Government's strategy has been to leave unamended the present Obscene Publications Acts (for the reasons given above) but to ensure that the law is strengthened as necessary by the introduction of specific legislation dealing with areas which give rise to particular concern and which can be tackled without attracting the sort of problems associated with wider-ranging reform. In recent years, the Government has introduced powers in the Local Government (Miscellaneous Provisions) Act 1982 to deal with sex establishments and lent support to private members' measures on indecent displays (the Indecent Displays (Control) Act 1981) and on bogus cinema clubs (The Cinematograph (Amendment) Act 1982). A good example of this

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approach is the support the Government is giving to Mr Graham Bright's private member's Bill on the control of video recordings. This strategy is in line with the Government's manifesto commitment on obscenity which reads:

"We will also respond to the increasing public concern over obscenity and offences against public decency, which often have links with serious crime. We propose to introduce specific legislation to deal with the most serious of these problems, such as the dangerous spread of violent and obscene cassettes."

7. The Home Secretary considers that it would be sensible to maintain this approach. He believes that the introduction of, or the provision of Government support for, any further legislation necessary to deal with specific problems of particular concern offers a better prospect of curbing problems in this area within a reasonable time-scale than would the introduction of legislation to reform the Obscene Publications Acts.

MR BRIGHT'S VIDEO RECORDINGS BILL

8. Ministers have made it clear that they fully share the concern of Mrs Whitehouse and very many other people about the spread of objectionable video recordings. The manifesto included a commitment to introduce legislation (see paragraph 6 above) and the Home Office had been giving detailed consideration to the options. Meanwhile Mr Graham Bright, who came top in the Ballot for Private Members' Bills, decided to take up this subject and introduced a Bill.

Outline of the Bill

9. It is proposed that the Bill (which is a Government handout and is to be considered by L Committee on Wednesday 19 October) will make it an offence to supply commercially (including to sell or to rent), or to offer to supply commercially, a video recording which has not been classified by a body designated for this purpose by the Secretary of State. It will also make it an offence to supply commercially, or to offer to supply commercially, a video recording in breach of the conditions attached to the classification certificate, (e.g. to sell to a child a video classified as suitable only for those over the age of 18). These offences will apply, so far as necessary, to distributors and wholesalers as well as to retailers. There will be certain exemptions designed to prevent the need for censorship of video recordings which are not

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for supply to the public (including unfinished products sold by one manufacturer to another, and material for broadcast), or which are concerned with certain specified matters including education, information, or instruction, or sport, religion or music (provided they contain no material of a sexual or grossly violent nature).

Government assistance for the Bill

10. The Home Secretary has announced that he very much welcomes Mr Bright's initiative and that the Government will be making available to him all the support and assistance he needs to speed the passage of his Bill through Parliament.

Mrs Whitehouse's criticisms of the Bill

11. Mrs Whitehouse expressed her dissatisfaction with these proposals at her meeting with the Home Secretary on 25 July. A copy of a paper by the National Viewers' and Listeners' Association is at Annex D. In Mrs Whitehouse's view the fundamental defect of Mr Bright's proposals is that they depend solely on video cassettes being subject to classification by a body designated by the Secretary of State. This opposition takes two strands: first, Mrs Whitehouse believes that the legislation should be based on a formula prohibiting the sale or rental etc of violent and sexual perversion, the depiction of which would be illegal; second, she is critical of the British Board of Film Censors which, as she is aware, is the body the Home Secretary expects to designate as the censorship body under the Bill.

General formula

12. In support of the "formula" approach, Mrs Whitehouse has cited two examples of foreign legislation. The first of these originated in Sweden in 1981 and makes illegal the sale, rental and distribution of "violent videograms containing detailed and realistic portrayals of violence or threats of violence to human beings or animals, indiscreet and prolonged portrayals of brutal or sadistic violence". The second model comes from legislation created in certain States in the USA. This forbids the distribution, by any means, of obscene matter and goes on to define precisely what is to be classed as obscene. Obscene matter is described as material without serious artistic, literary, political or scientific value which depicts in a "patently offensive way" specific acts ranging from simulated or actual sexual intercourse to specific acts of sexual perversion such as flagellation and bestiality. Mrs Whitehouse believes that a list of prohibitions along these lines would catch most offensive material and if it did not the list could simply be supplemented. (This approach would

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presumably be that proposed in connection with her "list" approach mentioned in paragraph 1 above).

13. The main difficulty with the NVLA proposals is that they rely heavily on subjective judgements about what constitutes material of artistic or similar value or what is or is not "patently offensive". Another objection is that the breadth and vagueness both of the general formula and the list approach would catch a great deal of material which most people nowadays regard as acceptable. It is possible, for example, to envisage "Macbeth" or "King Lear" being caught by the Swedish formula and, under the list approach, endless room for argument over whether films dealing "explicitly" with sexual themes were or were not of "serious" artistic value. A further problem is that pornographers would be able quite legitimately to exploit any area inadvertently omitted from the list; and given the large profits to be made, a great deal of ingenuity would no doubt be brought to bear to seek out such loopholes. The Government would then be faced with the problem of adding to or amending the original list.

14. It seems highly likely, therefore, that these approaches, in the context of the general obscenity law, would cause as many problems as they sought to solve. As to Mr Bright's Bill, the inclusion of Mrs Whitehouse's proposals would be bound to arouse intense debate about what activities should or should not feature in a list, as well as over similar issues of principle; this could seriously prejudice the prospects of success of the Bill.

Role of the British Board of Film Censors

15. Mrs Whitehouse has been extremely critical of the British Board of Film Censors (BBFC) which, in her view, has presided over a decline in moral standards, as demonstrated, for example, by the recent introduction of the "Restricted(18)" ("18R") certificate given to films intended for exhibition in club conditions only to those over the age of 18.

16. The Home Secretary pointed out to Mrs Whitehouse at their meeting on 25 July that the BBFC were the obvious body to designate as the censorship body since they had the necessary experience and resources. Despite Mrs Whitehouse's misgivings, they were in fact generally regarded as having performed their duties satisfactorily.

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17. The Home Secretary would not designate the BBFC unless he believed that they would undertake the classification of video recordings in a responsible manner, but he would be fully prepared to withdraw the designation and make fresh arrangements if it became plain that the standards they set were not publicly acceptable.

Guidelines for the designated body

18. Mrs Whitehouse believes that if her proposed general formula is not to be included in Mr Bright's Bill the designated body should at least be issued with clear guidelines for the purpose of carrying out its censorship duties. These "guidelines" should take the form of the general formula mentioned in paragraphs 12-14 above, indicating what type of material should be excluded from classification and which it would therefore be illegal to supply.

19. The Home Secretary firmly believes however that the Government should not become involved in censorship decisions, either in individual cases or by setting specific guidelines. The issue of guidelines to the BBFC would bring Ministers much more to the forefront of the exercise and make it much more difficult to leave the responsibility for individual decisions to the designated body. Moreover, the drawing up of such guidelines would pose all the problems referred to in paragraph 13 above in connection with the list system. The issue of guidelines by the Home Secretary would represent a significant step towards Government censorship and as such would be vigorously and widely opposed.

20. The intended position is that the Home Secretary will designate a body independent of Government to carry out the task of classifying video cassettes and will remain aloof from its day to day operations. If the body performed its task in a manner which caused obvious and widespread public concern, the ultimate sanction would be removal of designation. That is a very different matter, however, from the day to day monitoring of the body's operations.

21. A further safeguard is that the Bill will not provide the BBFC (or indeed dealers in video recordings) with immunity from prosecutions under the Obscene Publications Acts 1959 in respect of video recordings they have classified.

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"Restricted(18)" Certificates

22. The "Restricted(18)" ("18R") classification was introduced by the BBFC in December 1982 to supplement the four public categories of film classifications. It is applied to films which in the view of the BBFC should be shown only under club conditions to people over the age of 18. This covers films which, while not portraying extremes of sexual perversion or horror or violence, are likely to be more explicit than films previously given an "X" certificate.

23. Mrs Whitehouse explained at her meeting with the Home Secretary that she is particularly anxious that "18R" material should not be available on video because of her concern that, whatever the restraints, children would gain access to it.

24. Ministers have given sympathetic consideration to this request. However according to informal soundings by Mr Bright, this would attract some Parliamentary opposition. Moreover, our legal advice is that the absolute prohibition of the sale of video recordings which would otherwise fall within the "18R" category might constitute a breach of our international obligations on freedom of expression.

25. Ministers' present view, therefore, is that the Bill should not prevent absolutely the supply of restricted 18 video recordings, but that their supply should be confined to sex shops to which people under 18 are not admitted. This, together with the other provisions of the Bill, will ensure the removal from High Street shops of the most objectionable material and make it much less likely that it would get into the hands of children. Even if the Bill were drawn up as Mrs Whitehouse suggests, however, it would not be possible to offer absolute safeguards against irresponsible parents allowing children to watch unsuitable material.

Home Secretary's meeting with Mrs Whitehouse on 25 July

26. At his meeting with Mrs Whitehouse, the Home Secretary made it clear that the Government fully shared her concern about the spread of objectionable video recordings. He outlined the proposed contents of Mr Bright's Bill and explained how this would considerably strengthen the law in this area. The Home Secretary pointed out that Private Members' legislation was subject to hazards and drew attention to the dangers to its safe passage through

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Parliament if Mrs Whitehouse and her supporters did not give it their support or if they tried to force through controversial amendments.

27. The Home Secretary undertook to consider all the points made by Mrs Whitehouse. He will convey his conclusions to Mrs Whitehouse when the Bill is published (which is expected to be early in November).

BROADCASTING

28. Mrs Whitehouse has expressed concern about the level of violence and bad language in programmes, particularly those shown when large numbers of children and young people will be watching.

29. The BBC, the IBA and the Welsh Fourth Channel Authority are independent of Government and are responsible for the content of their programmes, within the general rules prescribed by licence and agreement for the BBC and under statute for the IBA and Welsh Fourth Channel Authority. Their obligations (e.g. not offending against good taste or decency or being offensive to public feeling) are much more stringent than the normal requirements of the criminal law, in particular the Obscene Publications Acts from which the broadcasters are exempt.

CABLE

30. Mrs Whitehouse opposes the suggestion made by the Hunt Inquiry that any "X" film might be shown on cable television and at any time of the day provided the particular channel is equipped with an electronic lock to protect children.

31. The White Paper on the development of cable systems and services, published in April, states that cable operators should have the same duties in matters such as taste and decency as those which now apply to the BBC and IBA, with no special exemption for electronically lockable channels. Like the BBC and IBA, the new Authority will be required to have particular regard to programmes shown when large numbers of young people are likely to be watching. The White Paper also makes it clear that so-called "adult channels" have no place on the sort of cable systems which the Government wishes to see develop. It is proposed that cable channels will be subject to the Obscene Publications Acts 1959 and 1964.

32. The Cable Bill is due for introduction in the House of Lords before Christmas.



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

14 October 1983

Handwritten signature in red ink

Dear David,

... Tim Flesher wrote to me on 13 September about the Prime Minister's meeting with Mrs Mary Whitehouse on 18 October to discuss "video nasties" and the proposals of the National Viewers' and Listeners' Association for their control. I attach briefing material, which has been approved by the Home Secretary (Annex A). This covers Mrs Whitehouse's views on the need for reform of the obscenity legislation and on Mr Graham Bright's Bill to control video recordings and on broadcasting and cable television.

... Mrs Whitehouse has, of course, campaigned over many years for a complete overhaul of obscenity legislation. As you may recall, she raised this matter by telephone with the Prime Minister's office earlier in the year and I attach a copy of the reply the Prime Minister sent on 23 February (Annex B).

... More recently she met the Home Secretary and Mr Mellor on 25 July to discuss Mr Bright's Bill. I attach copies of subsequent exchanges of correspondence between the Home Secretary and Mrs Whitehouse on this Bill and on the wide question of obscenity reform (Annex C). At Annex D is a recent paper by the National Viewers' and Listeners' Association on "video nasties".

Yours ever,

H H Taylor

H H TAYLOR

David Barclay, Esq



10 DOWNING STREET

THE PRIME MINISTER

23 February 1983

Dear Mr. Whitehouse

You telephoned my office on 4 February urging fresh action on obscenity legislation.

I fully understand, and indeed share, your deep concern about the decline in moral standards in this country. Like you, I deplore those who seek to make profit out of exploiting the weaknesses of others and in so doing undermine our traditional standards of decency and respect for family life.

Nevertheless I think it only fair to say that we have, during our period in office, made some progress towards controlling and restricting the trade in pornography. As you know, we introduced provisions in the Local Government (Miscellaneous Provisions) Act 1982 which allow local authorities to control the activities of sex establishments in their area and we have also lent support to Private Members' measures dealing with indecent displays (the Indecent Displays (Control) Act 1981) and bogus cinema clubs (the Cinematograph (Amendment) Act 1982). I believe that these measures will have a significant effect in restricting the sale and exhibition of pornographic material.

There is also, I know, considerable concern about the sale and availability of objectionable video cassettes. As the Home Secretary explained to you in his letter of 7 February we are at present awaiting the report of the British Board of Film Censors/ British Videogram Association working party who have been looking at th

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whole question of controls over the sale and rental of video cassettes. I share the Home Secretary's view that it would be sensible initially to see whether an effective voluntary system of control can be established, but I can assure you that if no such system emerges we have not ruled out the possibility of legislative controls.

I appreciate, of course, that you would prefer to see comprehensive new legislation covering the whole area. As you well know, however, this is a particularly complex and controversial subject and I am sure that we have in the past been right to concentrate our efforts in areas where we can be reasonably certain of securing sufficient parliamentary support. Nevertheless, as I believe the Home Secretary has already told you, despite the difficulty of securing widely acceptable and effective legislation we do not rule out the possibility of more wide-ranging reform at some stage in the future. I hope therefore that you will continue to press your case, because such reforms could not succeed without public and Parliamentary support. I am sure that you will do so.

Yours sincerely

Raymond Whelton

Mrs. Mary Whitehouse, C.B.E.



QUEEN ANNE'S GATE LONDON SW1H 9AT

10 October 1983

Dear Mrs Whitehouse,

Thank you for your further letter of 5 September about the legislation on obscenity and Mr Graham Bright's Bill on Video Recordings.

I fully understand your very deep concern about the availability of pornographic material in our society. What is, I think, at issue is the practicability of further comprehensive legislation in this field, given the wide differences of opinion that exist on the direction such legislation should take.

As I made clear in my earlier letter, I certainly accept that there are inadequacies in the Obscene Publications Acts. However I do consider it would be an exaggeration to describe them as ineffective; convictions continue to be secured under section 2 and forfeitures ordered under section 3 and, perhaps more importantly, the threat of prosecution continues to hang over those who deal in pornographic material - which includes violence. Furthermore, these Acts do not stand on their own; they are buttressed by a good deal of legislation dealing with particular areas of concern.

We must not underestimate the very real difficulties in the way of securing even broad agreement about the way in which these Acts should be reformed. It is my firm view that there would be widely diverging and strongly held views within Parliament over this. I must emphasise, moreover, that I would fully expect these views to diverge even within political parties. It is the usual practice on matters so closely affecting issues of individual conscience to seek to allow Members to vote as they wish. Given that I do not perceive a basis of general support within Parliament for a specific approach to this problem, I do not think that, at present, a general reform of the Obscene Publications Act is practicable.

It is entirely consistent with our manifesto commitment that, in this situation, we should concentrate on those areas which give rise to particular difficulties and concern and which can be tackled without attracting the sort of problems to which I refer above. As you know, we have been very active on this front over the last few years and Mr Bright's present proposals are an excellent example of this approach. It deals with a specific problem of great concern to many people and it has, I believe, a good prospect of receiving Parliamentary approval.

On the detail of the proposed Bill, you suggest that the body to be designated to carry out classification should be issued with guidelines on the type of material to be excluded from classification. I have given further thought to this since our meeting and I am afraid my view still remains that I do not think it would be possible to devise a list which was sufficiently precise and comprehensive and

/which avoided

Mrs M Whitehouse, CBE

which avoided the need for subjective interpretations. Not only would such an approach risk attracting the problems associated with the Obscene Publications Acts, there is a very clear risk that the inclusion in the Bill of such a formula would provoke so much disagreement and argument as to prejudice the prospects of its enactment. It is, of course, intended that the Secretary of State should have power to remove the designation from the classification body if that body failed to discharge its responsibilities properly and, in my view, this will provide the necessary element of public accountability.

Finally, I am grateful to you for letting me see a copy of the letter sent to you recently by Mr Hinson McAuliffe which I have read with interest. I do, of course, fully share your concern that cable television should be properly controlled. It is for this reason that we have made clear in our White Paper that all cable channels will be subject to the same good taste and decency rules as the existing broadcasting authorities and the same obligations to have regard to the programmes shown when large numbers of children and young people are likely to be watching. In addition, cable channels will be subject to the Obscene Publications Acts. This is an important extra safeguard.

**NATIONAL
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AND
LISTENERS'
ASSOCIATION**

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The Home Office,
Queen Annes Gate,
LONDON
SW1H 9AT.

5th September, 1983

*Mr Itard - for advice put
c Mr Sutton
Mr Gribbin
Mr Rankin WO
Mr Bohan inc
Mr Itard*

Dear Mr. Brittan,

Thank you very much for your letter of 30th August and I am very glad that you found our meeting helpful. We were certainly very grateful for the time and courtesy you gave to us.

However, your letter does raise certain issues upon which I would like to comment and if possible obtain clarification.

First, you say that you "acknowledge that there are deficiencies in the Obscene Publications Acts although this is not to suggest that they are ineffective." With respect, we would suggest that if laws are "deficient" then inevitably they are "ineffective" and this is certainly true in this case and I understand that the police, quite apart from any other body, have made their views on the ineffectiveness of the said laws very clear to the Home Office over a long period of time and indeed, very recently.

Secondly, one wonders on what grounds you base your conviction "that there would be wide differences of view both within and without Parliament and outside about the framing of new legislation". Again with respect we would point out that the whole political stance of the Conservative Party under the Prime Minister's leadership is, for instance, to fight for economic policies which it believes to be right and get them established however great the opposition within and without Parliament. Why, one may ask, should there be any difference in the battle for moral issues, not least when your Election Manifesto stated clearly that, if returned to power, your party would "introduce specific legislation to deal with the most serious of these problems, such as the dangerous spread of violent and obscene video cassettes"? As far as the public in general is concerned - and our constant, even unique contact with every section of the community from women's organisations to the universities - enables us to state this with conviction - we are in no doubt about the extent of the anxiety surrounding the failure of the Obscene Laws as they stand.

cont. . .

The link between both visual and printed violent and sexual pornography and sex crime is now too well established to be ignored and the seemingly endless tragedies of child victims of molestation of one kind and another is creating a climate which demands effective action now and the Government will be wise to respond to it.

Which brings me to your statement that you do not "exclude the possibility of wider ranging reform if there seems likely to be sufficient consensus to allow the passage of the necessary legislation." Would you please be good enough to clarify for us the time scale envisaged here? Are you saying that there is a possibility of widening Mr. Bright's Bill in such a way that it would have the effect of tightening up the Obscene Publications Acts, or are you saying that such legislation would be considered at a later date if Mr. Bright's Bill is found to be inadequate? If the latter, we could be talking about years and the number of people, not least children, who would provide the evidence you would need to persuade you to act, would, surely be that number too many.

I remember well Mr. David Mellor's remark that you were waiting daily for attacks - presumably from the 'liberal' lobby - upon your plans to control video nasties and his reference to "considerable surprise" that it had not arrived. Perhaps by now it has. If not, the reason could well be that even many libertarians feel that matters have now gone too far. In any case, as I said earlier, it is surely for responsible Government to fight for what is right not for what is expedient.

To be honest we believe, as I hope we made clear to you when we met, that the time, and indeed the only time, for the Government to act effectively is now. I enclose a copy of a letter we have recently received from Mr. Hinson McAuliffe who, when Solicitor General of Fulton County U.S.A. met Lord Whitelaw and addressed both Houses when he came to Britain at our invitation in 1982 to talk about his very effective legislation to deal with sex shops in the States. We had written to him to ask what effect Cable TV had had upon the situation. You do not need me to tell you that Britain is about to launch into Cable, with its dependence on pre-recorded video, or that broadcasting, as is made clear in the attached letter from the Attorney General, is specifically excluded from the Obscene Publications Acts. Mr. McAuliffe's reference to "putting the cart before the horse" exactly reflects our own stated anxieties about the situation here unless effective obscenity law is established before cable is launched.

We know that the D.P.P. is refusing to take action in case after case involving 'video nasties' because of his belief that the present Obscenity Laws are incapable of securing prosecutions under Section 2 of the 1959 Act and, indeed, we shall be showing at "fringe" meetings at the Conservative Party Conference in October samples of precisely this type of material.

We come back to the question of classification as proposed by Mr. Bright's Bill. You are, I know, fully aware of our concern lest that task be given, as suggested, to the British Board of Film Censors but whoever is responsible for that absolutely key role should, in our view, be given specific guide lines as to what type of material should be excluded from classification and declared illegal.

cont. . . .

One hopes, with a sense of great urgency, that such guide lines can be established within the terms of Mr. Bright's Bill. If not one can only say, with total conviction, that the Government should introduce the necessary amendment to the Obscene Publications Acts, replacing the present test for obscenity "a tendency to deprave and corrupt" with specific definitions, the terms of which I do not believe would be widely disputed. If it fails to do so, not least because of the implied legalisation of even more extreme material within the 18R category, then the Government will inevitably be accused of misleading the country, with the most dire political consequences.

*With best wishes,
Yours sincerely,
Mary Whitehouse*

Mary Whitehouse
President.

- Enc. - Copy of letter from D.P.P.
- Copy of address given by Mr. Les Brown which has much that is very relevant to the British situation.
- Extract from 'The Times' editorial (30.1.76)
- Copy of letter from Mr. Hinson McAuliffe



cc M. Sisson
 M. Cuffney
 A. Faulkner
 M. Bohan
 M. Harris
 M. Head

Mr Mundy

(11)

QUEEN ANNE'S GATE LONDON SW1H 9AT

30 August 1983

2 Mrs Whitehouse,

Thank you for your letter of 28 July in which you ask whether the Government intends to reform the Obscene Publications Acts.

May I first say how glad David Mellor and I were to meet you and your colleagues last month to discuss Graham Bright's Bill to control the distribution of objectionable video recordings. It was most helpful to have your views on this matter and we are giving very careful consideration to the points you raised.

I acknowledge that there are deficiencies in the Obscene Publications Acts, although this is not to suggest that they are ineffective. But I have no doubt that there would be wide differences of view both within Parliament and outside about the framing of any comprehensive new legislation. That is not to say that I exclude the possibility of wider ranging reform if there seemed likely to be sufficient consensus to allow the passage of the necessary legislation; and I can assure you that this is an area I shall be keeping under close review.

For the present, however, I believe it is best to concentrate our efforts on dealing with matters of particular concern. As you are aware, in recent years we have introduced powers in the Local Government (Miscellaneous Provisions) Act 1982 to deal with sex establishments and we have lent support to Private Members' measures on indecent displays and on bogus cinema clubs. We are now, of course, directing our efforts in this area towards giving full support and encouragement to Graham Bright's Bill on objectionable video recordings which, as you know from our meeting, is a problem which greatly concerns me. I am confident that this Bill will considerably strengthen the legislation in this area.

with best wishes

~ Rickey

Leon Birt

Mrs Mary Whitehouse, CBE.

NATIONAL VIEWERS' AND LISTENERS' ASSOCIATION

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RECEIVED
29 JUL 1983
PRIVATE SEC

The Rt. Hon. Leon Brittan, MP
The Home Secretary
The Home Office
Queen Annes Gate
LONDON
SW1H 9AT.

28th July, 1983

Dear Home Secretary,

I would like to thank you very much for the courtesy you showed us and the generous time you gave when we came to see you last Monday.

We have thought much about our conversation and feel that the key question is whether or not the Government intends to amend the Obscene Publications Act (1959/64) in order to make it into an effective piece of legislation. And if so, what is the time scale envisaged.

We would be most grateful if you could give us this information at your earliest convenience.

Yours sincerely,

Mary Whitehouse

Mary Whitehouse
President.

*Mr Munday
The Editor - The Observer*

*c Mr Mellor
Mr Entwistle
Mr Faulkner
Mr Mowbray
Mr Harris*

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THE RT. REV. M. A. P. WOOD, D.S.C., M.A., R.N.R., Bishop of Norwich

APPENDIX

Extracts from letters from teachers

"I (and my colleagues) are becoming increasingly alarmed at the way young children are given access to 'X' rated video films. We have noticed that children who watch such films become very nervous, excessively bite fingernails, and become withdrawn. One infant child who is exposed to pornographic material has become very disruptive and violent."

1.4.83

"I have a class of seven and eight year olds and have become increasingly worried about the films they tell me they watch. Several children were discussing how frightened they had become by watching "The American Werewolf in London" at another child's birthday party. On another occasion a girl told me that she had screamed so much whilst watching "Friday 13th" that she had to be slapped."

12.6.83

"Recently I was deeply disturbed to discover that a group of 9 year old boys in my class were frequently allowed to watch videos hired by their parents. Most of these were normally classified as "horror films" (Halloween II, The Exorcist, etc). However, at least three had seen "The Texas Chainsaw Massacre" and one boy's father had hired the banned "Driller Killer", about which horrific scenes were recounted in detail by the boy in question".

28.6.83

"In our primary school it is the poorer families who seem to have videos, often with several children, extra busy mums, etc. These children often talk about seeing horror

type films. As a parent, I have two unfortunate incidents where my nine year old son has visited friend's house and has been shown video horror films, completely unsuitable for children (Omen 2 and American Werewolf in London). My son was terrified on both occasions, after only a few minutes watching, and there were problems for several nights at bedtime, and afterwards for some time (he is an ordinary tough boy who loves Science Fiction etc. at his level)."

9.6.83

"Several of my colleagues and I have found even primary aged children rent 'X' type films to show on videos when their parents are out. In certain families the children watch these films with their parents. In one particular case they have "porn on Fridays" because the father would rather his 12 year old son watched such films with his parents, than secretly with friends. Many children (again including the under 11's) have bedroom TV sets and watch video "horrors" etc on their own there."

14.4.83

"During the last academic year I taught ten and eleven year olds and I was appalled by what they were allowed to see. This year I'm teaching seven and eight year olds and as you can imagine, the problem is even more worrying. My main concern is not the children who view unsuitable material in secret, although this obviously happens. What is particularly worrying is the fact that parents allow, condone and encourage their children to view with them. The films are usually cinema certificated but are very often 'X' certificate containing scenes of mindless violence, explicit sex and foul language. In my experience, the weekly or weekend film is chosen by the parents principally for them but they would never think to exclude the rest of the family or send the children to bed, especially as they often view at any time during the day. I have spoken to a

number of parents about their attitude purely on a conversational level. The majority seem to take no notice of the cinema rating. One or two have said that they do not worry about explicit sexual content as their children 'know all about that'! (10 and 11 year olds). Horror films are popular and children are allowed to view unattended, presumably because the adults concerned think that the children will be able to view on a superficial level which they cannot. One mother was slightly concerned to find out that 'An American Werewolf in London', bought as a horror film, had its final scenes in a Picadilly Circus 'Porn' Cinema, with the film as the background scene but she soon dismissed it because he knew all about the facts of life!

PCB 54



cc: D. Howe

10 DOWNING STREET

From the Private Secretary

13 September, 1983

NB Visit to be kept as private as possible

The Prime Minister mentioned to the Home Secretary this morning that she will be seeing Mrs. Mary Whitehouse shortly to talk about "video nasties" and the proposals of the National Viewers and Listeners Association for their control. I have arranged this meeting for 10.30 a.m. on Tuesday, 18 October and I should be grateful if you could provide a brief for that meeting to arrive here by Friday, 14 October.

I should add that the Prime Minister wishes her meeting with Mrs. Whitehouse to be a private one and I should therefore be grateful if you could stress this to those involved.

TIMOTHY FLESHER

Hugh Taylor, Esq.,
Home Office

285

PRIME MINISTER

You will recall agreeing to see Mary Whitehouse to talk about "video nasties". I have arranged a time for this and Derek and I will make arrangements to ensure that the visit is kept as private as possible.

May I have your permission, however, to let the Home Secretary know that you are seeing Mrs. Whitehouse and to obtain a brief from him? I would ask that knowledge of the meeting should not go beyond his Private Office. Alternatively, I could simply obtain a general background note on the current position but the former would, I think, be preferable.

Agree to proceed on that basis?

Yes ml

D.

12 September 1983

NATIONAL VIEWERS' AND LISTENERS' ASSOCIATION

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HON. BRANCH DEVELOPMENT OFFICER:

Mr. John R. Wilson,
18 Corstorphine Bank Terrace,
Edinburgh, EH12 8RX,
Tel: 031-334 1727

2nd September 1983.

The Rt. Hon. Mrs Margaret Thatcher M.P.,
The Prime Minister,
10 Downing Street,
London S.W.1

Dear Mrs Thatcher,

May I first say how delighted I am that your operation was such a success, though the fact that you had to undergo it makes me especially reluctant to trouble you during the necessary period. I would not do so if I did not feel the matter is particularly urgent.

The truth is that I have felt both unhappy & frustrated since our meeting with the Home Secretary to discuss, in particular, the question of the control of the 'video nasties'. The only way I can see to clarify the various doubts & anxieties I have is to write and ask if you could possibly spare me a little time so that I could come & talk to you privately? I would value such an opportunity beyond anything & do so hope it will be possible.

With all good wishes,
Yours sincerely,

Mary Whitehouse

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MJ

11 July 1983

The Prime Minister has asked me to thank you for your letter of 7 July with which you enclosed your recommendations to the Home Secretary. I am sure Mrs. Thatcher will be interested to see this. You will by now have received the Prime Minister's letter of 4 July in which she makes clear her views on control of offensive video films.

TIM FLESHER

Mrs. Mary Whitehouse, C.B.E.

MF

NATIONAL
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AND
LISTENERS'
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MRS. MARY WHITEHOUSE, C.B.E.

ORGANISING SECRETARY:
Mr. John C. Beyer

The Rt Hon Mrs. M. Thatcher, MP 7th July, 1983
The Prime Minister
10 Downing Street,
LONDON
SW1.

Dear Mrs Thatcher.

I know that you are very concerned about the matter of the control of 'video nasties' and I hope that you will find the enclosed report of help and interest. We are sending a copy by the same post to the Home Secretary, Mr. Leon Brittan.

With very best wishes.

Yours sincerely,

Mary Whitehouse

Mary Whitehouse
President.

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18 Corstorphine Bank Terrace,
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Tel. 031-334 1727

HON. SPEAKERS SECRETARY:
Mrs. M. Kerigan,
54 Lower Park Road,
Loughton, Essex, IG10 4NA
Tel. 01-508 0191



10 DOWNING STREET

THE PRIME MINISTER

4 July, 1983

Dear Mrs. Whitehouse,

Thank you for your letter of 23 June about the kind of depraved video films which, unfortunately, are so freely available in this country. As you know, I left the House of Commons in no doubt about my own views on these films during Question Time on Thursday and Leon Brittan is urgently considering what form legislation to control them should take. This is not entirely straightforward because we all want such controls to be as watertight as possible, but Leon Brittan hopes to make an announcement of his conclusions as soon as possible.

Yours sincerely
Margaret Thatcher

Mrs. Mary Whitehouse, C.B.E.

FILE

84

84



10 DOWNING STREET

TIM FLESHER

Could we have a word about the
attached?

Derek

27th June 1983

DH Autm

TF

24th June 1983

Thank you for your letter of 23rd June, together with the enclosed letter to the Prime Minister.

I will, of course, ensure that she sees this as soon as possible.

Derek Howe
Political Office

Mrs Mary Whitehouse CBE

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ORGANISING SECRETARY:
Mr. John C. Beyer

Ach

23.6.83

Mr. D. Howe,
10 Downing Street
London S.W.1

Dear Denis,

Just to say how delighted I
was to see you in the House of
Lords (on telly!) on Wednesday.

Secondly to ask if you
could ensure, with your usual
kindness, that the Prime Minister
receives the enclosed letter? I

would be most grateful -

With very best wishes -

Yours ever,
Mary

HON. TREASURER:
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Still Waters, Pine Walk, East Horsley,
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Tel: 031-334 1727

The Rt. Hon. Mrs. M. Thatcher MP
The Prime Minister
10 Downing Street,
LONDON SW1.

23rd June, 1983

Dear Mrs Thatcher

It was with deep disappointment that I heard no reference during the Queen's speech yesterday to the legislation promised in your election manifesto to control "obscenity and offences against public decency" with particular reference to "video nasties".

This omission was foreshadowed by press reports (e.g. Sunday Telegraph 19th June) to the effect that the Government would be waiting to see if the video industry would "put its own house in order", reports which we dismissed as incorrect in the light of the promise which has been so uncompromisingly made in your manifesto, and to which I referred so many times in the visits we paid to marginal seats during the election campaign.

May I therefore ask if you can tell us when that promise will be fulfilled? Our anxiety is twofold. On the one hand it is clear that with every day that passes children and young people are increasingly at risk (see attached press cutting 'Boy's Nights of Terror'). On the other hand the video trade itself have gone on record as saying that they have misgivings as to whether such a voluntary code could or would work. We are aware from our contacts with the Video Trade Association that there are many responsible people who wish it to work but would find a voluntary code impossible to administer.

I attach also an article by John Sanders, former Editor of Video Trade International, and would draw your attention particularly to the words underlined on P.12 and in particular to the view of Mr. Derek Mann, VTA's chief executive, to the effect that "a voluntary code as proposed by BVA and BBFC was only likely to be adopted by the 10,000 or so legitimate dealers and TV rental chains. Meanwhile an extra 5,000 shops dealing with videograms as a sideline were, on the face of it, unlikely to comply with the code."

cont. . . .

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PROFESSOR G. N. M. COLLINS

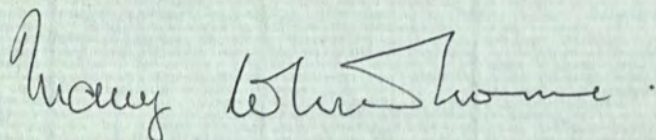
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THE RT. REV. M. A. P. WOOD, D.S.C., M.A., R.N.R.,
Bishop of Norwich

Because of our very close involvement in this issue we are already receiving anxious, even cynical, enquiries. We would very much like to be in a position to re-assure our members and others that the Government does indeed intend to take very early action on this matter and would be most grateful for any assurance you can give us to this effect.

With best wishes.

Yours sincerely,

A handwritten signature in cursive script that reads "Mary Whitehouse". The signature is written in dark ink and is positioned above the typed name.

Mary Whitehouse
President.

c.c. to Mr. Leon Brittan

RATING

Censorship — what are the real options?

The system of classifying videograms due to be imposed on dealers from September, is not the only, or the best way, argues John Sanders

As if piracy, price cutting and the appearance of the friendly neighbourhood fast-food-and-video-cassette emporium were not enough to concern the video dealer, there is now the spectre of video censorship stalking the high streets. The reason that the British Videogram Association gives as its excuse to inflict a Videogram Standards Council upon video dealers is that, in the words of BVA chairman Donald MacLean: "If this voluntary system is not seen to be effective, the government will impose some form of statutory control".

So, the choice, according to BVA is a simple one from two alternatives: the trade should accept the censorship scheme put forward by BVA and the British Board of Film Censors, which will almost certainly set the same standards adopted by cinemas, or that which the pre-election Conservative government would impose on the trade.

One point on which almost everyone seems to agree is that censorship, or more accurately, certification, is sorely needed. Donald Maclean, again, sums up the needs of certification as fourfold:

- to give the individual consumer the means of making a more informed choice;
- to restrict the access of youngsters to

videograms containing material which most people would regard as potentially harmful;

- to enable the attention of the police, in their enforcement of the Obscene Publications Acts and other legislation, to be concentrated on material not classified under the scheme;

- to enable publishers, distributors and retailers of videograms to avoid dealing in products likely to contravene the law.

OK, so what is it that BVA, BBFC and the newly-formed Videogram Standards Council want to impose on dealers and the industry in general? Well, the cinema industry recently adopted a five-tier system for classifying movies — U (Universal), PG (requiring parental guidance) 15 (restricted to 15-year olds and over, 18 (restricted to 18-year olds and over in premises licensed under the Local Government [Miscellaneous Provisions] 1982 Act — the sex shops Act). It is proposed that videocassettes should bear the same classification labels.

Lurid covers

At last dealers will be able to tell customers whether a particular cassette is suitable for children. No longer will the police be confused by a lurid cover concealing an innocuous movie (or vice-versa). Hooray? No.

Firstly the proposed system has several shortcomings.

1. It doesn't recognise the principle that what people choose to watch in their own homes is their own business. Incredibly, BVA claim that they too support the notion that the viewer's home is his private castle. Norman Abbott, BVA's chief executive, went



Martin Leelan

out of his way to stress this when he spoke at the VTA conference at Brighton (see page 15). Alas, such fine words are only words. BVA members do not produce movies which would fall foul of Mr James Ferman, the boss of the BBFC censors. At least not in a way which would significantly affect cassette revenue.

Certainly, without changes to the proposed system many movies now obtainable on cassette will fail to get a certificate. And the *Restricted 18* certificate will be of no use for semisoft porn. Where premises require a special licence, local councils will normally be reluctant to issue them. Even when such licences are issued, ordinary members of the public (and the experience of most video dealers is that sex movies are hired by seemingly perfectly ordinary people) will of course find it most awkward, probably impossible, to enter such premises in the full view of their neighbours.

One dealer asks: "What are BVA getting at anyway? If we are supposed not to hire out certain categories of cassettes to certain age groups, what offence is it to the general public that another category is included? The

The censorship scheme controversy

This April the British Videogram Association announced at a press conference that it had consulted the British Board of Film Censors and had decided to impose on the video industry a 'voluntary' code of censorship for videograms. Certificates would be granted by a still-to-be-appointed Videogram Standards Council which would reflect exactly the standards adopted by the BBFC for cinema films.

BVA added that their 40 or so members would all adopt the new system from September 1983 and any other distributor could use the system. After an initial period any dealer stocking non-certificated material would be proscribed and would no longer receive BVA members' videograms.

To simplify the process, documentaries and other harmless material could be certified by the distributors as being of the 'U'

category without formality. The backlog of titles on distributors' shelves would receive certificates over the course of the first three years of the system's operation.

The announcement so astounded the retail trade that a special conference was organised by the Video Trade Association at Brighton in order to clarify what appeared to be a diktat by BVA.

Derek Mann, VTA's chief executive, explained to the conference that a voluntary code as proposed by BVA and BBFC was only likely to be adopted by the 10,000 or so legitimate dealers and TV rental chains. Meanwhile an extra 5,000 shops dealing with videograms as a sideline were, on the face of it, unlikely to comply with the code. It was clear from Mann's speech and from the many questions from the floor that dealers were extremely unhappy with the proposed system.

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cassettes after all can't be viewed in the shop. Youngsters won't be able to get hold of them — so what is the need for a special entrance and a special licence? It would be different if we were to sell sex aids, pornographic books and the like, members of the public might be offended and it would be an unsuitable place for children. But provided the inlay cards on the cassette boxes aren't offensive, what is the need to further restrict them?"

It doesn't effectively classify the movie. Certainly it gives a rough guide to the suitability for showing the movie to children, but if we are going to the trouble of providing a system which will "give the consumer the means of making a more informed choice" then let's do it properly with ratings for the degree of nudity, horror and bad language as well. At the same time the distributor should help the consumer by saying whether the movie has been dubbed or has subtitles, and the dealer by publishing the movie's UK distribution history (Cinema, TV etc.).

It is going to cost a lot of money. One informed estimate puts the cost to the distributor at around £300 per certificate. Who pays? The distributor pays the £300 to the standards council, the dealer pays a higher price for the cassette (probably an extra £1 for titles with a small production run), and the result is that the smaller distributors become even less competitive (however, smaller distributors do not generally belong to BVA so that's all right then) and the customer has a more limited choice. One estimate puts the revenue to the standards council in a typical year at £100,000 plus the cost of certification of the backlog of several thousand titles already in the shops.

So where did BVA go wrong? Simply by failing to consult the industry. They quite rightly diagnosed that something was desperately needed to classify video movies, but because seven leading member companies of BVA are subsidiaries of major Hollywood studios, much of the style of these studios has rubbed off on BVA. In America, the studios are used to dictating to the "movie theaters" on all matters of distribution, cost, and performance. That the

same style is prevalent here, one has only to consider the reply of Warner's David Rozzalla who, when asked how long it now takes to become a registered Warner dealer, said last month: "Three months. We're in no hurry to get new dealers. We have over 2,000 dealers at the moment and that's probably all we need".

The new VSC system presents several new worries for dealers:

1. Many thousands of less-than-scrupulous dealers will not comply with the system. They will continue to rent cassettes along with the groceries with little regard to the age of the renter. So parents faced with a tiresome trip to the video shop will send their sixteen-year-olds to hire 18-rated movies from wherever the dealer will comply. The conscientious specialist dealer will lose custom.

2. Some cassettes will fail certification. Titles which today represent a considerable investment for many dealers, TCX, Electric Blue, etc and which contribute a steady income for many dealers, will suddenly become "illegal".

3. A new area of prosecution is created. Hiring cassettes to minors. At the moment, there have been no convictions relating to this offence. Although such a move is commendable it does add to the risks faced by the legitimate dealer, who now faces a risk of prosecution like a publican or a cinema owner.

An end to seizure?

There is one big advantage in favour of the scheme — it seems most likely that it will be accepted by the police as establishing the bona fides of a videogram.

One popular myth is that the police have nothing better to do than raid shops looking for pornographic cassettes. In reality, the police are in an invidious position. If they do nothing they are accused of at best condoning the crime of pornography and at worst of being in league with pornographers, and on the other hand they are accused of harassing legitimate businessmen whenever they do investigate a complaint.

Rupert Ormerod, Assistant Chief Constable for Devon and Cornwall, describes this dilemma as making the police the "jam in the sandwich". Mr Ormerod says: "Certification is very definitely necessary for the industry. Censorship is a form of social legislation and is very unproductive for the police to initiate. Video certificates will make the task of my officers easier."

At the moment anyone with a dislike of a certain dealer — a rival perhaps — or a very zealous person can complain to the police that he or she has been offended by the nature of movies offered for hire in a shop. The police are then practically obliged to investigate the complaint. They go into the shop and what do they see? Many hundreds



of cassettes, some with titles and covers suggesting that they contain material of a macabre or sexual nature likely to breach the Obscene Publications Act.

After all, one can hardly blame a distributor of a sex movie which has been imported from the USA and suffered massive cuts by him in an attempt at self-censorship, for at least dressing up the cover with a deceptive picture and description. He is hardly going to put: "Mandy goes to Baltimore is the bowlderised version of the celebrated American pornographic movie. It contains a weak story line which in the original version was somewhat mitigated by the many scenes of explicit sex. However the present version merely shows a few burns and tits, is poorly edited, has lost 40 per cent of its content and remains a movie with a weak story line."

So, it is argued, if the police were presented with movies that had an "official" censor rating they would be spared from trying to guess whether the cassette was dodgy enough to warrant seizure. Furthermore, it is argued, if a dealer were only to stock movies with a VSC certificate the police would, in practice, leave the shop alone. Another advantage to the dealer is that the system will be applied uniformly over the whole country. No longer will dealers in one police area be able to stock a title freely while those a few miles down the road are prosecuted for dealing in the same title. So from the point of view of the relations with the police, at least, certification will be welcomed.

However, the police are looking for a reliable system — any reliable system — not necessarily the BVA-BBFC system. Of course, no one denies that the VSC system is a considerable improvement on no system at all. What is clear is that it is so imperfect that it should be carefully reappraised before it is thrust upon us.

What are the alternatives? BVA constantly claim that a voluntary scheme cannot be as harsh as a compulsory one. However, it is extremely difficult to see how a government scheme could be more draconian. It is unlikely that the government would introduce a separate official censorship



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board — this would undermine the BBFC and the system now in operation in the cinema industry. So probably the government would appoint a censor panel indistinguishable from the proposed VSC. This panel would at least have the force of law — offering full and certain protection for the dealer against prosecution. It would no doubt incorporate the present BBFC so that all movie certificates would be protected by law.

Whatever scheme the government of the day imposes, it will have to begin by categorising cassettes and then drawing the line where it thinks they fall within the ambit of public decency. Not an easy task, especially given the complexity of the obscene publications legislation.

But what does the industry as a whole want to have?

● Classification of titles to let the customer know what he is getting. Bad language, nudity etc can spoil an evening's family viewing. Many families find such material embarrassing rather than offensive.

● Classification of titles to protect children.
● Full history of UK release (for the dealer).
● Technical classification — running time, whether dubbed, etc.

● Sanctions against dealers (but perhaps also against parents) who let unsuitable material fall into the hands of children.

● Apart from 'nasties' and movies gratuitously depicting sexual perversions there should be no restrictions on what is permitted to be offered to adults. Thus 'Restricted 18' movies would be normally available to video shop customers. If such a classification is to exist at all, then there seems no excuse for forbidding it in some shops but not others.

● All video shops should be licensed. Dealers persistently infringing censorship practice (and pirates) would have their licences withdrawn and would not be permitted to trade.

● Establishment of a Videogram Classification Panel which would draw up guidelines for self certification in all categories so that

producers and distributors could label their own movies. The panel would arbitrate where a dealer or member of the public complains that the certification is inaccurate and would provide compulsory certification for distributors who persist in labelling inaccurately. This would provide an inexpensive way of providing a comprehensive classification scheme while safeguarding dealers and the public from the unlikely possibility of unscrupulous distributors.

● This structure for video censorship should carry the weight of law. Local councils should have the powers to grant licences, dealers should be compelled (after a suitable period) to carry only certificated stock, prevent unauthorised material from reaching children, and avoid counterfeiting and piracy.

***Be sure to write to or telephone Network with your opinion. Editor George McDonald will be glad to listen to your views: Telephone: 021-622 5994. Or write to Network, Third Floor, Spencer House, Digbeth High Street, Birmingham B5 6DD.**

Readers' survey

Please complete the questionnaire below and send it to Readers Voice, Network, Inter City Publications Ltd, Third Floor, Spencer House, Digbeth, Birmingham B5 6DD

Please Tick Boxes

Are you or do you work for a: film manufacturer/distributor video wholesaler video library (retailer)

Do you believe a system of classifying video films should be introduced: YES NO

Please complete the rest of the questionnaire even if you answered NO to the above question as it is likely that some sort of classification system will be introduced and your views are, therefore, still valid.

Should a classification system be administered/enforced by:

Government Local Councils
Distributors Organisation (eg BVA) Left to the retailer
Retailers Organisation (eg VTA)

Do you have your own system of classification: YES NO

If YES please give brief details

If a classification system was introduced by the Government should it be: Voluntary Compulsory

If a classification system was compulsory what maximum penalties should there be if the 'rules' were broken:

Loss of licence (if they are introduced) Fine £100 or greater
Fine less than £20 Imprisonment
Fine less than £100

Do you feel that any national video organisation has the right to impose classifications: YES NO

If YES which organisation

Do you feel that the majority of video library owners are responsible people and need no external body to impose classifications:

YES NO

In some cases we will follow up people for their further views on the subject. If you feel that you might like to take part in a follow up could you please enter your name and address below. This will, of course, be treated with the strictest confidence and anything you say will not be revealed unless we have your permission.

Name Position

Address

..... Telephone number

AR, WEDNESDAY, MAY 18, 1983

Boy's nights of terror

By Chris Russon

A scene from a horror video screened to a kiddie audience at a Walsall club drove a young boy to live in fear of a mutilated corpse bursting from a bedroom cupboard.

The boy was so terrified he locked his wardrobe, hid the key and refused to go into his bedroom.

Even now the child is too afraid to sleep in the dark — eight months after seeing the terrifying movie.

The boy's parents told today how their 11-year-old son became obsessed with a frightening scene from the film. And a leading child doctor has warned that youngsters watching such movies run the risk of severe psychological damage.

The boy saw Friday the 13th — a gory

adults-only movie. His parents say he came home crying after watching the movie at the Sheffield Working Mens' Club last October.

His mother said that her son had become very nervous and reacted even to "mild" scenes of violence on television. "He is even frightened by scenes in videos that are approved for children," she added.

'Mild' scenes

"I feel very angry that he was allowed to watch such filth. What has happened to him in these past months has been very traumatic. I am sure what he saw that night could have a lasting effect on him."

The boy's parents had to consult their family doctor to help their child break away from the memory of the film.

The boy was one of more than 150-children, aged between ten and 18, who regularly watched X-rated film shows at the club in Lichfield Road.

Police raided the building last November after parents complained about the weekly

terror shows. Police found more than 150 youngsters, most in their early teens, watching *The Wanderers* — a bloody X-rater about American gang warfare, packed with foul language.

Today the ten members of the club committee became the first people to be prosecuted under the Cinematographic Amendment Act which came into force last October, outlawing the showing of films to paying public audiences unless clubs hold a council licence — costing £82.

The club started its Wednesday night shows last summer, renting videos of horror films and showing them on a 4ft screen. For 20p children were allowed into the club to see scenes of violence and sex normally restricted to adult cinema audiences.

The films included *The Exorcist*, *Death Race 2000*, *Rocky 2 and 3*, *Halloween 1 and 2*, *Bloody Moon*, *Carrie*, *Quadrophenia*, and *The Texas Chainsaw Massacre*.

News of the video nights quickly spread among the youngsters in the area. Police

found one teenager who had seen 15 films at the club. Most of the youngsters had been to at least five of the horror shows.

Dr Ian Young, consultant paediatrician at Walsall's Manor Hospital, today warned that many youngsters ran the risk of prolonged psychological damage by being subjected to horror scenes.

He urged parents to make sure their youngsters never had the chance to watch such violent films. "It can be very damaging for children of such young ages to be shown scenes of extreme violence," said Dr Young.

New legislation

A police spokesman said: "Some of these films shown to children would be found disgusting even by adult audiences. The fact that such horror can be shown to youngsters, sometimes with alarming results, is proof that the new legislation must be enforced."

"Films in this country are censored to be shown to specified age groups and that principle must be upheld."

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