

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.

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OF CHILDREN, ETC.) (AMENDMENT)

Draft /

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

Parliamentary Agents.

20.12.85

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 Richards

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 response on the proposal to remove the exemption for broadcasting should be so qualified and in particular that it should depend on the attitude of the broadcasters? *In my view they have been occasions when they have not observed the duties placed upon them in these matters. I'm not sure we should see a successful outcome*
- (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 remove 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