

ROUTLEDGE REVIVALS

# Questions of Censorship

David Tribe





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## Questions of Censorship

First published in 1973 *Questions of Censorship* offers a lively yet scholarly account of the forces that have exercised censorship down the ages. Unlike most other works on this theme, which have been confined to media, legislation, or countries, this book essays a broader theme, viewing censorship within the total context- psychological, sociological, and political. Although attention is focused mainly on censorship in Britain, this is set in perspective by comparative accounts of the situation in the United States, France, and the Soviet Union. This book will be a valuable reference work for students of media studies, political studies, and for general readers.



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# QUESTIONS OF CENSORSHIP

David Tribe

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## Abbreviations

**BBC:** British Broadcasting Corporation  
**BBFC:** British Board of Film Censors  
**DLAS:** Defence of Literature and the Arts Society  
**DPP:** Director of Public Prosecutions  
**EC:** Executive Committee  
**FCC:** Federal Communications Commission (US)  
**GLC:** Greater London Council (superseding the LCC)  
**IBA:** Independent Broadcasting Authority (superseding the ITA)  
**ITA:** Independent Television Authority  
**LCC:** London County Council  
**MRA:** Moral Re-Armament  
**NCCL:** National Council for Civil Liberties  
**NSS:** National Secular Society  
**NVALA:** National Viewers' and Listeners' Association



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## Introduction

Of all the issues that are bandied about in the media, the classroom, and (to the limited extent that the populace at large either knows or cares) the market place, none has, in my view, been dealt with less satisfactorily than censorship. It is not that there is a shortage of material. In one sense there is too much; so that academic observers are inclined to concentrate on one or other of its many facets: the impact of statute law, or court decisions, or government regulations; the way it curbs this or that medium; the history of its involvement with one particular aspect of opinion – political, religious, moral or aesthetic. A further difficulty is that countries which specialize in a particular form of censorship have both a concern and a capability to suppress advertisement of this fact, while writers and readers are, on the whole, more interested in what they experience themselves than in the fate of distant times or places. Being relatively free of overt political censorship for a century and a half the United Kingdom, indeed the Anglo-Saxon world, has become ensnared by *pudibonderie anglaise*, so that ordinary conversation and reference books alike suggest that obscenity and pornography have been, are, or ought to be the main concern of censorship and the fight against it. Not only is this patently false in a world context, it is, I suggest, a considerable simplification, often a misunderstanding, of the true situation in Britain and the ex-colonies themselves.

Inevitably every Anglo-Saxon writer on censorship, myself included, must be influenced by the pudibond obsession, probably an important part of his own unconscious, if not conscious mind. Even in totalitarian countries censorship is usually exercised in a less ham-fisted way than is commonly appreciated, so that most writers are not pure rebels but share some of the interests and prejudices surrounding them. If, down the years and especially in recent times, British procedures have been largely pudibond, erogenous zones will provide much illustrative material. And there is another justification for concentration on the issues arising from obscenity and pornography. Whether or not one accepts the 'command' theory of government and the law propounded by Thomas Hobbes and John Austin, political and religious questions tend to be more straightforward than moral and social ones. It is true that there is sometimes as much dispute over

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what is seditious, blasphemous or heretical as over what is obscene or indecent, and the central issue of whether or not the dissemination of ideas should be regulated is in one sense independent of the nature or scope of the ideas. Yet once definitions are out of the way, direct political and religious censorship is largely the suppression of what is 'against the government' or 'against true religion', and in most cases the secular or ecclesiastical authorities that do the censoring are good enough to define, after or before the event, precisely what these phrases entail. If cases of this sort are brought to trial, judges or juries can usually reach speedy decisions – and usually adverse for the defence. Notions of what is 'against good morals' or 'against public decency' are likely to be more controversial. Here the relationship between ideas and actions, between personal conduct and public well-being, is more subtle; and the defendant, as it happens, has a better chance of acquittal. Since 'morals' and 'decency' are far-ranging concepts, what seems at first glance to be an obsessive confinement of them, by both libertarians and conservatives, into sexual channels may disturb the academic moralist. Where the debate gets entangled with such particularities as pubic hair, however symbolic this may be of naturalism in life and art, the concern is of more than academic interest, for the whole concept of morality is trivialized. Yet sex in all its manifestations has other than biological interest. It is a powerful expression of individual personality and social relations. Where overt sexuality is unsatisfying to the individual the *libido* expresses itself in religious devotions, artistic energy or political machinations. Rites and ritual, class and caste derive much of their motivation therefrom. In an age that calls for participatory democracy it is the most direct and personal form of participation. Traditionally sex has been restricted in the interests not only of decorum, but of the family, the social group, the race, property inheritance and other abiding institutions of the state; and those who call for sexual freedom usually demand, or at least desire, religious, social and political freedoms as well.

Apart from academic specialists, writers on censorship tend to be interested parties. I do not mean simply that they are interested in removing, reducing or extending it. Inevitably their experiences are more personal than the cultural experience they describe publicly, and from these they may make unwarranted generalizations. The state is a delicate balance of forces, distrustful of extremes. So the far Right and the far Left are alike penalized. In their confined worlds protagonists of each cause are less likely to dwell on Aristotelian means than on conspiracy theories, and it is common for them to

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attribute government bias and media censorship to successful infiltration by their opponents. This they see as a comprehensive operation involving more than narrowly political or ideological – such as religious or irreligious – material and invoking trends in pop and pap to anaesthetize the populace intellectually or corrupt it morally; and there is of course some truth in the allegation that people given up to self-gratification, in either their activities or their reading and viewing, are unlikely to become political activists. Whatever the political system of a country, its Establishment thus equates obscenity with social subversion and blames it on an internal or external opposition. Attitudes to specific creations become symbols of something greater, though to the faithful a symbol often impersonates an actuality. Writers or publishers of obscenity not uncommonly believe that the Establishment spends most, or much, of its life circling, with evil intent, the goldfish bowl of their *erotica* instead of having bigger fish to fry; while Western purity brigades, apparently oblivious of the publishing situation inside the socialist countries, seem to regard pornography as the major weapon of international communism. In the world of religious orthodoxy or heresy the struggle between liberalism and conservatism passes, in the estimation of protagonists, from a global to a cosmic struggle between the powers of light and the powers of darkness; and all civil order or disorder is attributed to the outcome. I hope that this book will be more than an informative survey of each of these weighty topics but will restore a sense of balance among them and in relation to the world at large.



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# I WHAT

*This Order avails nothing to the suppressing of scandalous, seditious, and libellous Books, which were mainly intended to be suppress . . . but hee who destroyes a good Booke, kills reason it selfe, kills the Image of God, as it were in the eye* – *Areopagitica: A Speech of Mr John Milton. For the Liberty of Unlicenc'd Printing, to the Parlament of England* (24 November 1644), p. 4.



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# 1 Fuel for every fire

What is censorship? What sort of material does it seek to suppress? The answer to both questions is: almost anything.

The modern (i.e. 1933) definition of a censor given in the *Oxford English Dictionary* is 'an official in some countries whose duty it is to inspect all books, journals, dramatic pieces, etc., before publication, to secure that they shall contain nothing immoral, heretical, or offensive to the government'. In this narrow sense, which some pedants, I believe wrongly, regard as its true meaning, censorship of printed material disappeared in Britain in 1695, and of plays in 1968. Only in totalitarian lands of the Right or the Left does it, by and large, remain in this form. Yet it would seem perverse to say there is no censorship in the liberal democracies. Most dictionaries and encyclopedias have therefore abandoned this pedantic distinction and settled for definitions of censorship like 'restriction on ideas prior to, or prosecution following, their publication'.<sup>1</sup> Prior control is designated as 'pre-censorship'. Like post-censorship it is more complex and subtle than is generally recognized.

Further light is cast on the implications of 'censorship' by examining its etymology. A secondary *OED* definition of a censor is 'one who exercises official or officious supervision over morals and conduct', which is itself derived from 'the title of two magistrates in ancient Rome, who drew up the register or census of the citizens, etc., and had the supervision of public morals'. In the United Kingdom in 1971 – Census year – following on campaigns by MPs of all parties, Justice, the National Secular Society and especially the National Council for Civil Liberties, against invasions of privacy by the 'data bank society',<sup>2</sup> the former function aroused strong passions. At any time it shows the way in which different branches of bureaucracy intertwine and the complexity of libertarian operations in detecting and unwinding them. But census-taking is not a function today associated with censorship; so, after sounding a warning of the way in which information garnered in this way could, if vigilance relaxed, be stacked up against the individual, we may pass on to more familiar ground.

The 'moral' way in which the Roman censors worked has been

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described by an eighteenth-century republican who admired ancient Rome:

The office of the Censors was one of the noblest institutions of the Commonwealth; their ordinary jurisdiction extended to the regulation of private expenses, the enacting of sumptuary laws, the farming the revenues, and the reformation of dangerous abuses and disorders in the popular assemblies; of which last we have many examples. But their chief province was to direct and preserve the public discipline and manners, to preside at the Tribunal of Fame, to reward the brave and virtuous with marks of honour and distinction, and to brand the degenerate and corrupt with dishonour and ignominy. This institution was of admirable use in maintaining the morals and the virtue of the people; and at the same time highly contributed to support the vigour of the laws, and to preserve or restore the Constitution to its first principles: For 'tis a certain maxim, that as good laws make good men, so good men defend good laws, and are both a mutual defence to each other. But there was this essential defect in the frame of this office, that there were two Censors instead of one; for all great commands are better managed by a single person than by many, especially such as require the utmost rigour and severity in their execution. For power divided between many naturally produces discord . . . destroyed the good effects of their magistracy, which depended solely on their concord and unanimity; both enjoying an equal authority, and either of them having power to vacate the decrees of his colleague.<sup>3</sup>

Looking back on this institution today, many will feel that the 'essential defect' was conceived and nurtured by the Romans with considerable affection, and with prudence.

Behind *ensor* is *censere*: to estimate, rate, assess, be of the opinion. It confirms the high subjectivity of all censorship in the way it is conceived and executed. It explains why even those creative artists and promoters anxious to conform to the dictates of the responsible authority find it hard to know what these dictates are. Not only are they enforced by officials with individual approaches to their demanding work, but in so far as they accord with the needs of authority they tend to change with circumstances that alter these needs. In recent years we have heard a lot about the changing Communist Party line in this context, but change should not be interpreted as necessarily cynical or hypocritical.

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The readiness of the Communist to clasp to his bosom the hated enemy of yesterday and to denounce as traitors and monsters his former allies and even adored leaders has often led him to be considered cynical or immoral. Quite the contrary – such reversals of judgment and feeling are the very key to the Communist morality and the fullest expression of his constructed character. Accompanied by the strongest passions, they have nothing in common with switches in attitude resulting from a mere absence or relaxation of principles. Morally weak or indifferent people may, for the sake of expediency, collaborate with individuals whom they have denounced and drop former friends as a liability; in this way they violate *themselves*. With the Communist a change in the policy of the party transforms the nature of the former friend or ally. At one stroke the imperialist Roosevelt disappears and is replaced by Roosevelt the democratic champion of the peoples – while the isolationist peace-lover of this morning emerges this afternoon as a masked Nazi.<sup>4</sup>

In this way *Pravda* (truth) editorials, passed by the censor, deflower yesterday's truth without violating it or shaming themselves. Censorship may thus be described as opinion about opinion, morally or legally enforced.

Of anything that anyone can have an opinion about, authority can have a contrary view. Yet, while censorship must always be relative and to a degree uncertain in its formulation and application, attempts have been made – as in everything that concerns government and law – to codify and simplify it. And there are certain categories of ideas that, if expressed, are especially vulnerable to censorial attack. Before the invention of writing some 5,000 years ago in Egypt, Mesopotamia and the Indus Valley – and for a couple of millennia thereafter when the only records were inventories, deeds and decrees – there was no record of ideas or their fate. When these were recorded the records were at first fragmentary. But 'it seems that historically religious ideas were the first target of censorship, through persecution for blasphemy and heresy'.<sup>5</sup> 'Heresy' itself did not originally appear in a solely religious context, but derived from the Latin *haeresis* (a school of thought or philosophical sect), which in turn came from the Greek meaning taking, choosing, choice or course of action. But many other words that fill the censor's armoury bear powder marks of their religious origin. 'Profane' comes from *pro* (in front of) and *fanum* (a temple); 'obscene' from *obscaenus* (adverse or ill-omened) or *ob* (in the way of) and *scaena* (a stage, originally for religious rites and

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representations); 'lewd' from *laigo* or *laicus* (lay as distinct from clerical). The essential offence was putting in a worldly context and therefore cheapening what was held to be sacred.

As tribes coalesced into nations and empires the notion arose of the 'body politic' as something which could be injured like any other body, and formal political censorship was born. 'Lese-majesty' or *lèse-majesté*, an offence against the sovereign authority in the state, whether or not it was a monarch, derived from *laesa majestas* (hurt majesty). Soon the state was held to be what Jean-Jacques Rousseau called a 'collective moral person' as well as a political one, and the conviction grew that it, and the individuals within it, could be depraved or corrupted. 'Deprave' comes from *de* (down) and *pravus* (crooked); 'corrupt' from *cor* (altogether) and *rumpere* (to break). Although the lower orders were held to be particularly vulnerable to subversive ideas, a certain endemic corruption, to which they had become immune, was detected in their manners. Material that was 'vulgar' (*vulgus*, the common people), 'scurrilous' (*scurra*, a buffoon) or 'ribald' (*ribaldus*, lowest office of retainer) was deemed improper for the upper classes. As literacy spread, and especially after the invention of printing with the promise of combining cheapness with permanency of record, the emphasis shifted from what was spoken, even from the stage, to what was written. Thus 'libel', from *libellus* (a little book), came into its own. At first it was fairly unspecific, in the way that treason was. This had originally signified a mortal blow directed against either the state ('high treason') or an individual, especially a person on whom the felon was legally dependent ('petty treason'), until the latter came to be called murder. Whatever was objectionable to the Almighty, the government, or to any individual specified in the document or whoever chanced to read it was a libel. Gradually, however, it was separated into blasphemous, seditious, defamatory and obscene libel, though the idea of defamation stayed strong in them all, especially the first three. At least by derivation 'defamation' is straightforward: *de* (from) and *fama* (fame or good name).

Besides 'libel', the notion of writing is present in the second half of the Greek-based word 'pornography'. The first half connotes a harlot, so that the whole word means writing about harlots. It is interesting to recall that, while the priesthood appears to have been the oldest profession for men, prostitution was that for women; and the earliest recorded practitioners were, like the Vestal Virgins, attached to the temple and its rites. With books came an extended currency of ideas, good, bad, different and indifferent, in both time and place; and

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slander (spoken defamation) and oral blasphemy, sedition or obscenity became less important. But with the growth of statute law, or civil and criminal codes, in the nineteenth and twentieth centuries, the common law offence of libel, save for defamation, virtually disappeared. For all practical purposes, in Britain seditious and obscene libels were supplanted by statutes in 1889 and 1959 respectively, while 'blasphemy' in the academic sense that someone brought up as a Christian 'by writing, printing, teaching, or advised speaking, denies the Christian religion to be true, or the Holy Scriptures of the Old and New Testament to be of Divine authority',<sup>6</sup> vanished in 1967. In France in 1819, obscene and blasphemous libel were swallowed up in the portmanteau offence of *outrage à la morale publique et religieuse et aux bonnes moeurs*, and virtually all the libels were codified in a measure of 1881.

The nineteenth and twentieth centuries also saw a revolution in the media of communications, first visual, then audio-visual and electronic. It is often said the camera cannot lie, but even if that were so truth is no protection from the censor. Indeed nothing is more likely to arouse his interest, for inconvenient statements that are palpably false can often be ignored. In criminal, as distinct from civil, defamatory libel there is a truism 'the greater the truth, the greater the libel'. Criminal libel is rare today and truth is an important, but by no means complete, defence in civil libel. But in religious, political and fleshly matters nothing is more offensive than 'the truth, the whole truth, and nothing but the truth'. The camera and the microphone, especially when used in television and radio, brought new hazards to authority. Although the words were spoken and not written, the audience they reached was immeasurably greater than the circulation of the average book, while the tape-recorder made it possible to preserve a record in every home. So 'libel' was extended to include broadcasting.

Every sort of ingenuity has been used to enlarge the scope of the foregoing classifications or, on the part of defendants and libertarians, to restrict and hamstring them. For they have proved flexible enough, somewhere at some time, to embrace every conceivable class of creative idea or airy nothing and every local habitation and name through which this has been expressed. Sedition has stretched into condemning the Head of State, revealing 'official secrets' – even when these amount to the number of tea-cups in a Ministry canteen, if this happens to be recorded in a 'classified' document – and being in contempt of court (the 'Queen's' or the 'people's' court). In countries like India, Malaysia, the Soviet Union, and the newer Latin American and

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African nations, where many ethnic or religious groups co-exist, not necessarily peacefully, fomenting racial antagonisms takes on a seditious rather than a social connotation. So may irreligious utterances, even when the government is officially neutral or even atheistic, on the grounds that they could cause communal riots. This may happen if the population is predominantly of one religion. 'Poles are overwhelmingly Roman Catholic, and while the Party is engaged in promoting atheism and anti-religious propaganda, its censors are busy suppressing offensively blasphemous statements in the arts.' This is because of 'the distinction between ideological considerations and the government's practical day-to-day decisions in running the country'.<sup>7</sup> Similar considerations of diplomacy, or order of priorities, often influence Communist Party publications in non-socialist countries. Nor is sedition limited to hostile remarks against one's own country or anyone in it.

Just as Gilbert and Sullivan's *The Mikado* was briefly banned during a visit by His Imperial Highness Prince Fushimi in 1907, so *The Fall of Tsingtau: With a Study of Japan's Ambitions in China* (1915) was seized by Scotland Yard because Japan was Britain's ally during the First World War, and it remained on the suppressed list of the British Museum Reading Room even after Japan had demonstrated that her ambitions extended far beyond China and she was fighting Britain in the Second World War.<sup>8</sup> But it does not need war to make countries sensitive over relations with 'friendly' powers. Clearly there is greater sensitivity wherever close political and economic ties exist, though *The Brown Book of the Hitler Terror* was banned in Jerusalem in 1934 so as not to offend the Führer. One thinks especially of the Warsaw Pact-Comecon countries in their relations with one another and especially with the Soviet Union; and of Latin America under close surveillance by the Monroe Doctrine and the Central Intelligence Agency on behalf of the United States. Countries on the fringe of important power blocs are almost equally sensitive. Though relations are notoriously cool between the Soviet Union and Yugoslavia, Mihajlo Mihajlov, lecturer in Russian literature at Zadar, first got into trouble for his frank *Moscow Summer* (1964), which President Tito himself described as a 'reactionary slander' of the October Revolution, though the writer was also suspected of what 'we used to call Djilasism', i.e. a more fundamental criticism of the socialist system at large.<sup>9</sup> In addition to internal concerns and opposition to some East German propaganda films, censorship in Finland has extended to Billy Wilder's satirical anti-Soviet film *One, Two, Three* and Sweden's *The Bread of Love*, set

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during the war between Finland and the Soviet Union in 1939–40. While little love has ever been lost between Britain and France, French police intervened on behalf of Britain against Frank Harris, who was living in Nice in 1926, not so much for the obscenity of what Maurice Girodias has unfairly called ‘that cosmic monument of sexo-journalistico-literary bombast’,<sup>10</sup> *My Life and Loves*, as for the fact that Harris moved around in society circles and claimed familiarity with society beds. Similar compliments have crossed the Channel in the opposite direction, the most famous of them being the 1858 English prosecution of the publisher of W. E. Adams’s *Tyrannicide: Is it Justifiable?*, a ‘libel’ against Napoleon III, on whose life a bomb attempt had recently been made.<sup>11</sup>

Regimes with strong ideological overtones construe as potentially seditious works that are not obviously political. Such vigilance is understandable as indulgence has proved ill-placed. When the first volume of Marx’s *Das Kapital* was translated into Russian in 1872 the czarist censor passed it on the grounds that it was abstract and unrelated to Russian conditions, where capitalist competition had made hardly any progress against the feudal system; and in 1885, during Alexander III’s repression, the second volume was passed as ‘a serious piece of economic research, comprehensible only to specialists’.<sup>12</sup> Such latitude is however rare. Thus the works of Kafka were burnt by the Nazis in their great bonfires of May 1933 more because he was Jewish than because he was anti-totalitarian, and later banned in his native Czechoslovakia by the communists because he was mystical and ‘pessimistic’. Though homosexuality has been as rife in Nazi and Communist Parties as in any other, they have particularly tended to inveigh against all works that they regard as ‘effeminate’. This is to be interpreted more in a political than in a sexual context and has usually meant anything which is ‘intellectual’, ‘difficult’, ‘ugly’, ‘degenerate’, ‘abstract’ or hostile to Teutonic ‘naturalism’ or ‘socialist realism’.<sup>13</sup>

Alternatives to ‘blasphemy’ like heresy, sacrilegiousness, profanity, impiety, atheism and scepticism are what we would expect on dictionary grounds. Different as each of these terms is in a philosophical sense, they do not exhibit the extraordinary variety of ‘political crime’. Under the Blasphemy Act 1697 the offence was one of matter rather than manner, and a similar view of the common law offence was upheld in the Court of Exchequer in *Cowan v. Milbourn* (1867). When, in this case, the secretary of the Liverpool Secular Society announced the titles of lectures he proposed to give in a hired room: ‘The character and teaching of Christ; the former defective, the latter

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misleading' and 'The Bible shown to be no more inspired than any other book', the hire was terminated without compensation for advertising expenses and the defendant's action was upheld on the grounds that to deliver such lectures would be illegal. This view appears to have been modified by *obiter dicta* in 1883 and 1917. The first occasion was the trial of the editor, publisher and of the *Freethinker*, which was then lacing infidel propaganda with satirical stories, poems, comic strips and cartoons like 'Moses Getting a Back View' of the Deity as a down-at-heels, patch-bottomed labourer. Lord Chief Justice Coleridge expressed the view that blasphemy included elements of reviling, promoting immorality or, as modern textbooks put it, 'the use of ribald language calculated to deprave public morality and to endanger the peace'.<sup>14</sup> Though the case was not concerned with blasphemy as such, the 1917 *dictum* was that of Lord Sumner in a House of Lords appeal by the next-of-kin against the confirmation of a legacy to Secular Society Limited. In *Bowman v. Secular Society Limited*, His Lordship observed that 'the phrase "Christianity is part of the law of England" is really not law; it is rhetoric', so that blasphemy prosecutions must have 'elements of contumely and ribaldry'.<sup>15</sup>

A very recent summons under the common law of blasphemy therefore asserted that the 'performance was blasphemous in that it did violently and ribaldly vilify, ridicule and scoff at the Christian religion and did in like manner impugn its doctrines'. This was an action against a 'slapdash television' adaptation<sup>16</sup> of Oscar Panizza's play *Council of Love*, set in heaven, hell, and the court of Pope Alexander VI. Owing to a technicality the summons was dismissed without the issue of blasphemy actually being tried. With colourful words like 'ribaldly' and 'scoff' we are close to obscenity charges, and the two have sometimes been combined. So John Wilkes was prosecuted in 1763 'for publishing an obscene and impious libel, tending to vitiate and corrupt the minds and manners of His Majesty's subjects; to introduce a total contempt of religion, modesty, and virtue; to blaspheme Almighty God; and to ridicule our Saviour and the Christian religion'.<sup>17</sup> This 'obscene and impious' work was a brilliant parody of Alexander Pope's pompous *Essay on Man* by Thomas Potter, son of a former Archbishop of Canterbury. In this *Essay on Woman*, allegedly by Pego Borewell, were such exuberant heroic couplets as:

Oh! Blindness to the Future, kindly given,  
That each may enjoy what fucks are marked by Heaven.

## FUEL FOR EVERY FIRE

Who sees with equal Eye, as God of all,  
The man just mounting, and the Virgin's fall;  
Prick, cunt, and bollocks in convulsions hurl'd,  
And now a Hymen burst, and now a world.<sup>18</sup>

A copy of this work, bearing on its title page an erect phallus with a ten-inch scale below it and a motto 'In Recto Decus' in honour of 'a great Prelate' addicted to buggery, was produced before a committee of the House of Lords by an old colleague of Wilkes in the blasphemous Hellfire Club (Monks of Medmenham), the supposedly outraged Earl of Sandwich, who began to read it aloud. Lord Lyttelton, a patron of Pope's, demanded that he stop, but some other lords were determined to come to no hasty conclusions and had enough presence of mind to call 'Go on' and heroism to endure their chagrin to the end. Not long before this episode Wilkes had launched an attack on the King's Speech in his journal *The North Briton*,<sup>19</sup> which was held to be a 'false, scandalous and seditious libel'. For both offences he was outlawed and in 1768, when he returned, was fined and imprisoned.

Few writers have had either the wish or the wit to combine blasphemy and obscenity as neatly as Potter and Wilkes. 'Pure' obscenity summonses and indictments, especially in the nineteenth century, were often more remarkable than the works they cited for prurient imagination and literary talents, displayed by Treasury solicitors. Typical of such indictments is one in 1877 against the publishers of a quaintly phrased American contraceptive manual, Dr Charles Knowlton's *The Fruits of Philosophy*:

That Charles Bradlaugh and Annie Besant unlawfully and wickedly devising and contriving and intending, as much as in them lay, to vitiate and corrupt the morals as well of youth as of divers other liege subjects of our said Lady the Queen, and to incite and encourage the said liege subjects to indecent, obscene, unnatural, and immoral practices, and bring them to a state of wickedness, lewdness, and debauchery, therefore, to wit, on the 24th day of March, A.D. 1877, in the City of London, and within the jurisdiction of the Central Criminal Court, unlawfully, wickedly, knowingly, wilfully, and designedly did print, publish, sell, and utter a certain indecent, lewd, filthy, and obscene libel, to wit, a certain indecent, lewd, filthy, bawdy, and obscene book, called 'Fruits of Philosophy', thereby contaminating, vitiating, and corrupting the morals as well of youth as of other liege subjects of our said Lady the Queen, and bringing the said liege subjects to a state of

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wickedness, lewdness, debauchery, and immorality, in contempt of our said Lady the Queen and her laws, to the evil and pernicious example of all others in the like case offending, and against the peace of our said Lady the Queen, her crown and dignity.<sup>20</sup>

Until, with the passing of the Indictments Act 1915, charges took on a colourless and clinical gloss (e.g. 'having an obscene article for publication for gain contrary to s.2(1) of the Obscene Publications Act 1959 and s.1(2) of the Obscene Publications Act 1964'), this literary effusion was more or less the standard pattern in obscenity prosecutions, save that 'unnatural' connoted deviant sex or artificial contraception.

Various formulae, which will be looked into later, have been devised for the assessment of 'obscenity' and its younger brother 'indecenty' – from *in* (not) and *decere* (to be fitting). Their precise relationship was defined by Lord Chief Justice Parker in 1965. Both words convey one idea: 'viz, offending against the recognized standards of propriety, with indecenty at the lower end of the scale and obscenity at the upper end'.<sup>21</sup> The only problem, therefore, is to know what are 'the recognized standards of propriety'. (Often, in the hope that they are substituting something more absolute, lawyers replace the phrase with 'morality'. Yet this is, in many ways, even more unsatisfactory, for it has acquired religious overtones which in modern communities are probably more diverse than social habits.) 'Propriety' is an anthropological term, related to the tabus, fetishes, customs and notions of 'good taste' that distinguish the tribe. So, in various epochs and places obscenity has involved manners of eating, drinking, burying the dead, dressing and adornment. Usually it includes sex and most usually evacuation. Yet there are many anomalies. Incest is the most universal of sex tabus, but its representation has rarely been regarded as more obscene than any other sex act. True, Shelley's *The Cenci* has often been banned on this ground, but Shakespeare's *Titus Andronicus*, which abounds in violence as well, has offended less than *The Merchant of Venice* with its unflattering Elizabethan view of Jews, or the normal sexuality of *Venus and Adonis*. Bourgeois America gives the impression of greater sensitivity to excretion than to procreation, has devised marvellous euphemisms like 'bathroom' and 'comfort station' and 'little boys'/girls' room', and is less likely to 'go to the urinal' alone than to 'go to bed' with somebody else; yet 'shit' and 'crap' and 'piss' have escaped the censor's hand (if the metaphor will be excused) better than 'fuck' and 'cock' and 'cunt'.

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Apart from description of bodily functions, obscenity involves display of the body itself. Naturally nudity is more likely to offend than the contrary, but frank transvestism, as in John Osborne's *A Patriot for Me*, which the Lord Chamberlain banned from public performance,<sup>22</sup> has always been particularly abhorrent. From age to age what can be displayed 'with modesty' has varied considerably. In the nineteenth century bosoms – as long as the nipple was hidden – were less offensive than legs, while cod-pieces, which earlier enjoyed a long vogue in male attire, drew more attention to the genitalia than if everything had been allowed to dangle freely. In our more liberal though no warmer climate today, nudes are becoming more common. In the past they – i.e. female nudes – were allowed on the revue stages of many countries as long as they remained stationary, though this gave more opportunity to see what there was to be seen than if they had moved discreetly about. Another interesting tabu is pubic hair. It might be imagined that a furry pussy would be less shocking or revealing than a bald one, but pubic hair is one of the few commodities that have been adjudged obscene *per se*. This was established when thirteen of D. H. Lawrence's pictures, together with books of reproductions of them and a copy of *Ecce Homo* by the German anti-militarist cartoonist Georg Grosz, were seized at a London gallery in July 1929. The case was adjourned *sine die*, with five guineas costs, when the offending works were withdrawn. Between 1960 and 1967 this official view was confirmed when over 1,400 negatives were taken from Jean Straker's Academy of Visual Arts because of pubic hair or the 'attitudes in which the women were posed, coupled with certain implements and other paraphernalia used in the photos'.<sup>23</sup> At this time John Trevelyan, then Secretary of the British Board of Film Censors, regarded glimpses of pubic hair in bedroom (or other) scenes as an incitement to his scissors; and if it can now be seen fluttering on our stages or sprouting on our screens it is more through the urbanity of the Director of Public Prosecutions and the Attorney-General than any court decision. For, as spokesmen of modesty point out, taking no action today makes it more difficult to take action tomorrow. Once *Hair*, Kenneth Tynan's *Oh! Calcutta!*, Sergei Prókófiev's opera, *The Fiery Angel*, Glen Tetley's Dutch ballet, *Mutations*, and less celebrated shows<sup>24</sup> have brought nudity to the stage and sex supermarkets have taken Soho to the suburbs and the provinces, it seems churlish not to allow it in the cinema or the television lounge.

It would be wrong to believe that the old nudie cutie revue slogan 'naughty but nice' is now universally accepted and that dress de-

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signers have all become redundant, although in 1970 a major concern of Equity, the actors' union, was the shyness of their members and the heating of theatres. When nudity is permitted it is still, in many places, hedged about with strange rules. In Australia, or rather in the state of Victoria, a few years ago nipples were allowed in black-and-white but not in coloured photographs; and an amorous nude in a desert island cartoon was passed if she were shaded in to become a native girl. Here sexual censorship and social assumptions in the land of the White Australia Policy draw close together; though the attitude is different from that of South Africa, where sexual relations between the races are illegal and the depiction of 'intermingling' has been banned in films since 1931. In Victoria a 'sexy look' was detected in a girl's eye in a colour photograph and an underwater nude swimmer was rejected because 'a piece of seaweed floating near her might have been mistaken for something else'. The same censor ruled out 'phallic' and substituted *enceinte* for pregnant. His view seemed to be 'that sex is okay as long as it is associated with crime and violence, and that the perpetrators get their poetic justice or come-uppance at the end'.<sup>25</sup>

Whatever else violence may be it is rarely held by lawyers or legislators to be obscene. Indeed, the only prosecution<sup>26</sup> seems to have hit bubble-gum cards depicting atomic atrocities and bought mainly by children. When *The Anarchist Cookbook*,<sup>27</sup> telling readers how to make petrol bombs and grow drugs in the back garden, was imported in 1971 MPs called for its seizure but were told that only obscene books could be impounded by the customs. Were action to have been taken under the Obscene Publications Acts, it is likely the book would have been condemned not on account of its violence but on account of its drug promotion.<sup>28</sup> Probably this is why the film *Tropic of Cancer* was refused a BBFC licence,<sup>29</sup> though it did get one from the Greater London Council in 1971. Violence is, however, coming increasingly to occupy the attention of the British Board, or at least its former Secretary, and those television executives and legislators who are not entirely pudibond. Commercial television has had a code on violence since December 1964 and the British Broadcasting Corporation since March 1960. After making a swingeing attack on dirty books – 'There is a great deal of pornography about which is causing a great deal of concern to many people. . . . It is the general desire of the average person in this country that it should stop.'<sup>30</sup> – in March 1970, the then Home Secretary, James Callaghan, was shamed into asking the television bosses what they were doing to implement their anti-violence codes.<sup>31</sup>

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Clothes are no guarantee that the human body in art is safe from the censor. An Arab sheikdom is quite likely to follow the old Judaeo-Islamic prohibition against all representational art and photography. In India, whose ancient temples are bywords to visual pornographers, whose *Kama Sutra* is one of the most interesting and most banned of all religious works, and whose people die in millions every year from malnutrition, bureaucracy exercises a puritanical censorship over the second largest film industry in the world, and often steps in when the camera tracks in. Typical instructions from censors' reports are 'delete jerking of bust in close-up by one of the dancers' (*Prapancham*) and 'delete close-up shots of Maya in nurse's uniform where camera is focused on the nipple – 2 bits (*sic*), 11 ft' (*Minimi*).<sup>32</sup> Following the ancient practices of the *kabbalah*, censors the world over may take the word to be the reality and ban all references to sex organs and sex acts, however expressed. In this *genre* is the Indecent Advertisements Act passed in Victoria's England in 1889:

Whoever affixes to or inscribes on any house, building, wall, hoarding, gate, fence, pillar, post, board, tree, or any other thing whatsoever so as to be visible to a person being in or passing along any street, public highway, or footpath, and whoever affixes to or inscribes on any public urinal, or delivers or attempts to deliver, or exhibits, to any inhabitant or to any person being in or passing along any street, public highway, or footpath, or throws down the area of any house or shop, any picture or printed or written matter which is of an indecent or obscene nature . . . relating to syphilis, gonorrhoea, nervous debility, or other complaint or infirmity arising from or relating to sexual intercourse.<sup>33</sup>

Such references are not indecent according to their manner but are indecent *per se*. In submitting evidence to an Arts Council Working Party set up by a conference convened in June 1968 to look into the operation of the obscenity laws, I observed that 'some local authorities are liable to prosecution for daring to put up notices in toilets warning of the dangers of venereal disease and advising sufferers where to seek treatment'.<sup>34</sup> Everyone who read this warning thought it was an interesting but purely academic point in that the 1889 Indecent Advertisements Act was obsolescent. Within just over a year, however, it was successfully invoked against the proprietor and editor of the quarterly *Student*, Richard Branson, who ran an associated Advisory Centre. This distributed leaflets which said only:

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'GIVE US YOUR HEADACHES – abortion, adoption, contraception, drugs, educational problems, homosexuality, lesbianism, marriage, pregnancy testing, psychiatric help, venereal disease. The Advisory Centre has given free help to hundreds of young people. If you (or any of your friends) need help ring *Student* magazine and ask for the Advisory Centre. A MB 2872.' The mere mention of 'venereal disease' was enough to ensure an £8 fine at Marylebone Magistrates' Court in May 1970 and the withdrawal of the leaflet. This action worried the Health Education Council, which had prepared similar leaflets, and local authorities, though Westminster City Council tried to argue that its notices were affixed *in* and not *to* or *on* its urinals and that they were not 'public' but 'private' places. A Bill was hastily rushed through Parliament but, instead of repealing, it only amended the 1889 Act to allow exemption 'for a local or public authority or for a person publishing . . . with the sanction of the Secretary of State'.<sup>35</sup> Though the Advisory Centre has not applied for or received this sanction, it has not subsequently been harassed.

Actions which are *ipso facto* obscene or indecent somewhere or other in the world are legion, and, with the modern mobility of people and media of entertainment or instruction, have evoked enough censorship cases to fill a book themselves. The patient listing of nipples, pubic hair, and certain words has not sufficed to simplify the censor's task. Social and political ideas are yet more intangible and their suppression today raises a more respectable protest, so that wherever there is a possibility of proceeding against heterodoxy on an obscenity charge it is seized gladly. With purely ideological matter the most convenient designation of unacceptable works is by reference to authorship. This blanket condemnation has rarely been used in the fight against obscenity, though the works of Henry Miller and consignments of naturist publications<sup>36</sup> or magazines from Denmark have apparently figured on customs and postal lists for automatic seizure. It is uncertain whether any pre-Christian writers gained the distinction of total embargo, though the sophist philosopher, Protagoras, and the irreverent dramatist, Aristophanes, probably did for a time. With the Roman Catholic *Index Librorum Prohibitorum*,<sup>37</sup> first issued in 1559, the sonorous *opera omnia* (all his works) became a yardstick for the censor. Few religious heretics and, I think, no pornographers ever gained this distinction, though all the romances of Honoré de Balzac and the elder and younger Alexandre Dumas, who were political radicals and freethinkers during their working lives, were banned. The celebrated Pietro Aretino got by with one black mark, while Boccaccio's *Il Decamerone* was removed when an

edition was brought out which attributed the 'devils' which were cast into 'hell' to the laity and not clerics and nuns. Among those who did achieve *opera omnia* status were the Scottish philosopher, David Hume, the French novelist and publicist, Émile Zola, the Belgian dramatist, Comte Maurice Maeterlinck, and, most recently, Jean-Paul Sartre, Alberto Moravia, and André Gide.

Modern dictatorships have found the same device useful. Jewish authors were banned by the Nazis.<sup>38</sup> So too were communists. This formed a model for Franco's Spain, the colonels' Greece, and the Republic of South Africa. It is immaterial whether the writer concerned is, or ever was, a member of the Communist Party or, indeed, if he is at all inclined to Marxism. Opposition to the regime is his real crime and 'communist'<sup>39</sup> is a convenient label, used officially or unofficially. But other labels will do. The South African Suppression of Communism Act and 'Sabotage Act'<sup>40</sup> forbid the publication of anything said or written by anyone 'listed', such as Ronald Segal, Ruth First and Brian Bunting. Reciprocally the socialist countries have lists of tabu figures, present or past, who tend to fall into the category of 'fascist', 'Trotskyist', 'revisionist' or 'bourgeois deviationist'. Even in relatively liberal Yugoslavia, when Milovan Djilas fell from grace after denouncing Communist Party bureaucracies as a 'new class', such things as his work on the poet Njegosh, youthful recollections of Montenegro (*Land Without Justice*) and war stories were banned. Eastern Europe and the Soviet Union have perfected the technique of creating, in the best Orwellian manner, the 'unperson' who, at considerable expense and inconvenience, is obliterated from state photographs,<sup>41</sup> school textbooks and encyclopedias. Following the execution of the former police chief Lavrenti Beria, in 1953 subscribers to the *Large Soviet Encyclopaedia* were instructed to 'cut out pages 21 to 24 of Volume V, including the full-size portrait, and substitute the enclosed text for them'.<sup>42</sup> This consisted of innocuous illustrations of the Bering Sea and articles on Auguste de Beriot and Friedrich-Wilhelm Bergholz. In subsequent editions of the encyclopedia the amount of space devoted to Stalin has been a subtle index of his decline or ascendancy in the thinking of the party leadership.

Perhaps the great bulk of what has been banned down the years has come from the pen of political hacks or semi-literate pornographers who are in it for the money and who, so the censors say, can be made to see the error or at least the unprofitability of their ways and turn to more socially useful occupations. This argument has clearly seduced a large number of liberal people, including creative artists, into accept-

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ing systems of censorship whose real targets may be very different. A great many serious philosophical, political, and erotic works have sunk without trace. Of those that can be traced, quite a small number bob up time and again in clear or muddy waters, consuming the torpedoing energies of untold flotillas of police, customs men, and amateur fishers of men. It may be interesting to look at a few of them.

In 1929 D. H. Lawrence declared that 'some of Aristophanes shocks everybody today, and didn't galvanize the later Greeks at all, apparently'.<sup>43</sup> One imagines that *The Clouds* would have shocked the average Greek of any period, but Aristophanes is a cultivated taste in bawdy blasphemy and the gods in whom his contemporaries believed have long since tumbled from the sky. So the classical work which has had the most colourful history is a textbook on a subject of general interest, Ovid's *Ars amatoria*, the West's answer to the *Kama Sutra* of Vatsyayana and Sheik Nefzáwi's *The Perfumed Garden*. Another work of Indian or Persian origin is the *Thousand and One Nights*, which, one orientalist has assured us, has been frequently translated because of 'the faithful picture it offers of the manners and customs of the Arabs'.<sup>44</sup> At this stage I recall the expert evidence given on behalf of John Cleland's *Memoirs of a Woman of Pleasure* (better known as *Fanny Hill*, after the heroine whose first name was more appropriate than her second) when it was arraigned before the Chief Metropolitan Magistrate at Bow Street Magistrates' Court in 1964. This was to the effect that 'publication of the article in question is justified as being for the public good on the ground that it is in the interests of science, literature, art or learning, or of other objects of general concern'.<sup>45</sup> One witness observed that the fact that aromatic herbs were used in bathing in the middle of the eighteenth century was historically interesting, to which the prosecutor, Mervyn Griffith-Jones, whose voice is of unparalleled acidity, retorted that any young lady who had experienced what the heroine had sampled in the previous thirty pages would be in need of a bath with aromatic herbs. *Fanny Hill*, for which the author received only twenty guineas from his publisher, though the Privy Council granted him a pension of £100 a year not to repeat the offence, has been for over two centuries the great underground bestseller, especially, it seems, among country clergymen. Recently, though the amorous wench has probably won only one court battle in her life – before the American Supreme Court in 1966 – she has emerged, perpetually innocent,<sup>46</sup> above ground in Britain and other places.

Like Kafka, Abelard has suffered in different places for different offences; in his own day, the twelfth century, for heresy and sub-

FUEL FOR EVERY FIRE

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SOCIETY FOR PRIVATE SUBSCRIBERS ONLY.

VOLUME I.



*PLAIN AND LITERAL TRANSLATION OF THE  
ARABIAN NIGHTS' ENTERTAINMENTS, NOW  
ENTITLED*

*THE BOOK OF THE*

# **Thousand Nights and a Night**

*WITH INTRODUCTION EXPLANATORY NOTES ON THE  
MANNERS AND CUSTOMS OF MOSLEM MEN AND A  
TERMINAL ESSAY UPON THE HISTORY OF THE  
NIGHTS*

BY

RICHARD F. BURTON



*Asiatic erotica Arabian Nights*

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sequently for less intellectual pursuits, though he and his 'wife' Heloise have recently transferred to the West End with conspicuous success.<sup>47</sup> For political crimes Machiavelli's *Il Principe* (*The Prince*) has been in trouble from time to time, especially in Catholic circles. So too has Voltaire, whose philosophical works were banned in the Soviet Union in 1935. *Candide*, his satire on Leibniz, who believed that 'everything is for the best in this best of all possible worlds', has given particular offence to the faithful and the sanguine, perhaps because linguistically it is so accessible. The Anglo-Saxon deist who rivals him in prosecutions and general notoriety is Thomas Paine, whose *The Age of Reason* and *Rights of Man* were Britain's most-banned books for some decades after 1792.<sup>48</sup> They also inspired a number of other works, like Shelley's *Queen Mab*, that met a like fate.

In the same period (1820) the unexpurgated *Mémoires Écrits par Lui-Même* of Giovanni Casanova were locked away in a Leipzig safe<sup>49</sup> for daring to unravel what was probably an embroidered account of his life; but Samuel Pepys earlier and Henry Miller later showed that a true autobiography can be much more shocking. Righteously, Jean Laforgue's French edition of Casanova replaced sexual with revolutionary anti-clerical details.<sup>50</sup> In 1857 in France two celebrated books made the first of many court appearances: Charles Baudelaire's *Les Fleurs du Mal* and Gustave Flaubert's *Madame Bovary*, *Moeurs de Province*. The heroine of the latter, like Count Leo Tolstoy's later *Anna Karenina*, committed adultery in an age which deemed it a male prerogative. Another Scarlet Woman was Hester in Nathaniel Hawthorne's *The Scarlet Letter, a Romance*, who was made to marry at the end of the 1925 film version. Though he did write pornography,<sup>51</sup> Mark Twain enjoys in English ears a sweeter sound than in many other countries, including his own. Both *The Adventures of Tom Sawyer* and *The Adventures of Huckleberry Finn*, *Tom Sawyer's Comrade* were banned from the children's room of Brooklyn Public Library when they came out; partly because, like J. D. Salinger's *Catcher in the Rye*, which has had similar problems recently, they do not accord with adults' views of childish innocence and docility; partly because they depict a black and white friendship. There are other modern parallels. Michael Wadleigh's pop festival film *Woodstock* was cut by one hour in Greece, largely through the removal of its anti-Vietnam War and pro-black songs, which might have fostered liberal ideas in the youthful Greek audience; while *The Wild One*, Marlon Brando's early film, was refused a licence for many years and Roger Corman's *The Wild Angels* (based on the 'hell's angels') is still refused one because its violence was of the sort

QUEEN MAB;

A

PHILOSOPHICAL POEM:

WITH NOTES.

BY

PERCY BYSSHE SHELLEY.

---

ECRASEZ L'INFAME!  
*Correspondance de Voltaire.*

---

Avia Pieridum peragro loca, nullius ante  
Trita solo; juvat integros accedere fonteis;  
Atque haurire: juratque novos decerpere flores.

\* \* \* \* \*  
Unde prius nulli velarint tempora musæ:  
Primum quod magnis doceo de rebus; et arctis  
Religionum animos nodis exsolvere pergo.  
*Lucret. lib. iv.*

---

Δος τις εἶ, καὶ κοσμον κινῆσαι.  
*Archimedes.*

---

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1813.

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that censors have thought particularly likely to be emulated by young people.

Throughout the nineteenth century and into the twentieth, not only new works or exotic translations ran into difficulties, but reprints of native products that had caused no widespread consternation when they first came out were now adjudged obscene. In this category huddled some of Chaucer's twenty-three (or twenty-three and a half) *Canterbury Tales*, born in the fourteenth century, and works of Rabelais like his *Chanson de la Braguette* from the sixteenth. Birth control books continued to be prosecuted long after Bradlaugh and Besant won their appeal on a technicality, and the best-known twentieth-century figures in this field scored a notable number of black and grey marks round the world: Margaret Sanger's *Family Limitation*, Norman Haire's *Birth-Control Methods*, and Marie Stopes's *Married Love*, *Wise Parenthood* and *Contraception*.<sup>52</sup> Stopes's previous play *Vestia* was refused a licence by the Lord Chamberlain, and in the 1930s Alec Craig found that she was represented in the Hampstead Public Library only by her works on plant life. Books on books on contraception, from Norman Himes's *Medical History of Contraception*, are protected, as far as possible, from both the scholarly and the prurient eye. Norman Haire is better known for his *Encyclopaedia of Sexual Knowledge* and that, with other sexological works, has had its vicissitudes, though, as far as I am aware, no encyclopedia of digestive or gymnastic knowledge has ever been imperilled. Best-known and most hounded of the sexual texts are Baron Richard von Krafft-Ebing's *Psychopathia Sexualis*,<sup>53</sup> Magnus Hirschfeld's *Sexual Anomalies and Perversions* and Havelock Ellis's seven-volume *Studies in the Psychology of Sex*, especially the volume on *Sexual Inversion*.

Modern fiction writers have fared no better. Many of them are Irish expatriate who have fared even worse in the land of their origin than in that of their adoption. But there are universal non-favourites such as Oscar Wilde's *Salomé*. Like his mentor, Henrik Ibsen, whose *Ghosts* was banned at different times in both Britain and America and all of whose plays were anathema in his native Norway, Shaw offended the bourgeois sensibilities of theatre-goers and paid – and was later repaid – heavily for it. *Mrs Warren's Profession*, which was one of the oldest (as a play and as a profession), was taken to court and found non-actionable but the Lord Chamberlain decided in 1922 it was also non-actable. *Man and Superman*, which is too long and dreary to have been attempted often on the stage, had library problems when it turned up in book form in New York and all of Shaw's works were