

Saving us from ourselves: contraception, censorship and the 'evil literature' controversy of 1926

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In the history of Irish public policy on communications, the ban on the publication of information about contraception merits a special place. It existed for half a century, and the circumstances of its elaboration and implementation offer a special insight into the sensitivity of Irish governments on matters of sexual morality, as well as into public and media attitudes to the controversies involved.

The ban did not exist when the Irish Free State came into being in 1922. It was first enacted into law in the Censorship of Publications Act¹ some seven years later. Seventy-year-old papers giving details of the evidence and hearings of the Department of Justice's Committee on Evil Literature, have now, however, been released by the Department of Justice², and make clear that this legislative provision was in fact the culmination of an extended campaign originating, in a formal sense, some eighteen years earlier. The campaign led, in the first place, to the establishment of the Committee in February 1926. The Committee's final report, which was delivered to the Minister by the end of 1926 and published early in 1927, contained recommendations which were the foundation not only for the establishment of the Censorship of Publications Board, but for important changes in the criminal law, affecting the distribution of information about contraception as well as birth control appliances themselves. Section 16 (1) of that Act made it a criminal offence to print, publish, sell or distribute

any book or periodical publication (whether appearing on the register of prohibited publications or not) which advocates or which might be reasonably supposed to advocate the unnatural prevention of conception or the procurement of abortion or miscarriage or any method, treatment or appliance to be used for the purpose of such prevention or such procurement.

The penalty on conviction was six months, a fine of £50³, or both.

The papers are also of considerable contemporary relevance, given that a major political and legislative battle has been on-going over the question of abortion information in Ireland. Almost seven decades ago, one of the key issues was the provision of information on family planning; the other was the more general one of the morality of British newspapers and magazines circulating in Ireland and, to a lesser extent, of books, whether published in Ireland or elsewhere. The questions of morality addressed were not exclusively sexual: UK-based newspapers and periodicals were also criticized for lurid crime reporting. The documents of the Committee make clear, however, that the campaign, as documented by its own organizers, was more of an uphill struggle than might at first glance appear to have been the case. The eventual enactment of the ban took place in an atmosphere characterized not only by carefully stage-managed protest but also by a degree of public indifference. They also throw interesting light on the role played by a number of Irish Protestants and others in a controversy in which nascent ideas relating to freedom of expression and freedom of conscience received a first, tentative airing⁴.

The campaign to ban the dissemination of literature on contraception – abortion, as already adequately covered by the Offences Against the Person Act, was not a public

1. No. 21 of 1929.

2. Release date 1 January, 1995. No explanation for the delay in releasing the papers has been forthcoming. The present writer's first, unsuccessful attempt to get the Department to release the files was made when he was a member of Seanad Eireann in 1971.

3. £1650 in 1994 values.

4. All references in this paper, unless otherwise specified, are to documents of the 1926 Committee on Evil Literature in the box file Jus 95/7 (Department of Justice, 1995 release), National Archives, Dublin.

issue – goes back in a formal sense to 1911, when the Irish Vigilance Association was founded in Dublin on 10 November. Its president was a Dublin solicitor, Thomas J. Deering, and its headquarters were at 39 North Great George's Street. A number of priests were prominently involved, notably Fr. M.H. McInerney of St. Saviour's, Dorset Street, Fr. Kirwan, SJ, of Gardiner Street, and Fr. R.S. Devane SJ, of Limerick, who made the prosecution of a crusade against 'evil literature' his life's work, even to the point of physical exhaustion.

The Association's initial campaign focused on Dublin newsagents, who were asked to sign pledges that they would not distribute any of the offending publications. Later handbills were distributed, a number of pamphlets were written and published, and pressure was brought to bear on 'certain Dublin journals'. This method of proceeding did not, however, produce the required results, and so local vigilance committees were formed. These were not completely successful either, with the possible exception of the Limerick committee, which substituted extra-legal zeal for more orthodox powers of persuasion with more tangible results. There were, in that city, some 28 news vendors, all but two of whom agreed to sign a pledge that they would refrain from selling objectionable papers. On Fr. Devane's own doorstep, however, even this minimal act of defiance was too much to be borne. 'Their papers had to be seized and burned', he later told the Committee. 'Certain measures had to be resorted to to show that people were behind the movement. ... There are only two alternatives in stamping out an evil: law or terrorism, and we had to fall back on terrorism.' Writing in the *Irish Ecclesiastical Record*⁵, he gave the point an additional, political dimension: 'In 1911, one had to take the law into one's own hands, and to anticipate the dictum of that brilliant lawyer who declared in relation to the arming of "Ulster" that "there are illegalities which are not crimes".'

5. 'Indecent Literature: some legal remedies', *Irish Ecclesiastical Record*, February 1925.

Devane's advocacy of censorship focused particularly on birth control, and had more than a tinge of anti-Semitism about it. In 1925, he and another priest, Fr. John O'Flanagan, as part of an ongoing pressure campaign aimed at changing the law, formed a deputation from the Priests' Social Guild which went to Kevin O'Higgins, the Free State Minister for Justice, to complain about an incident in the west of Ireland. As Fr. Devane was later to describe the same incident to the Committee:

I was on a mission in Ballina last year. There arrived in the town a jew (sic) with a lorry... and he started selling contraceptives made up as pencil holders at 2/- each. Someone told the parish priest about this traffic and he found it was a fact. He notified the police who could do nothing. He then set up a court of his own and tried him and fined him £100. The jew paid £10 and cleared out.

Nor had the Minister been unsympathetic. 'Mr O'Higgins told us instantly', Fr. Devane added, 'that the police had reported a jew travelling in the west of Ireland selling these things by the wayside. The police were advised to take action but they threw the onus on the legal authorities.'

Initially O'Higgins had seemed willing but hesitant. The editor of *Our Boys*, Brother J.L. Craven, had written to him early in February 1925 asking him to take action. 'It is felt', the Minister's secretary replied on 18 February, 'that the matter could only be satisfactorily dealt with when the public conscience has been aroused to a healthy frame of mind towards the evil. The Minister would be glad to receive encouraging resolutions of the kind referred to in your letter.'⁶ The Christian Brothers went to it with a will. Brother Craven, writing subsequently to the Committee, said that he had expended £1,100 of the Order's money⁷ in an extensive campaign 'to drive gutter literature out of Ireland'. Not the least dramatic of his initiatives was a full-page advertisement, taking up the entire front page of the *Irish Independent*, on 1 May 1925, with the arresting headline 'The Remedy: Strangle the Traffic', and the sub-heading 'Ireland Speaks: The Serpents Must Go'.

An undoubtedly crucial event in this assembling of public opinion was a decision by the Irish Catholic Bishops' Standing Committee, on 19 January 1926, to seek a meeting

6. cf *Irish Independent*, 1 May 1925. The Minister's Secretary, Mr. Thomas J. Coyne, was the civil servant later entrusted with the administration of wartime censorship during World War II.

7. £36,300 in 1994 values.

with the Minister for Justice on the issue. The meeting was arranged, with noticeable celerity, for the next day. The fact that the Committee was appointed less than a month after their meeting with the Minister speaks for itself. Later invited to give evidence to the Committee, the bishops declined: evidently, their talking had already been done, and behind closed doors. The significance of this *démarche* can also be seen in the initial hesitation of the Catholic Truth Society when asked to give evidence. They agreed to meet the Committee only after their possible participation had been discussed, and presumably agreed, at a meeting of the hierarchy's Standing Committee on 13 April 1926.

The establishment of the committee had mixed reviews. *The Irish Times* was ambivalent: in a leader on 'Public Morals' published just before the establishment of the Committee, it went to town on declining standards:

Today... the Free State is not only a less industrious, but a more immoral country than it was fifteen years ago. Parents are losing the capacity to control their children. Extravagance in dress is almost universal, and is most reckless among the very people who can afford it least. Fifteen years ago few women of the middle classes touched strong liquors, even in their own homes. Today many of them take wine and whiskey in public places; and women and men drink with equal *abandon* in the dancehalls of country towns and villages. Sexual morality has increased in the Free State and is increasing. If the police authorities and hospitals could speak freely on this subject, they might shock the national conscience.⁸

Some ten days later, a leader castigating the 'intolerance' which had just greeted the first performance of *The Plough and the Stars*, went on to give a cautious welcome to O'Higgins' initiative but warned that it detected 'the smug voice of cant... in the demand for a moral censorship of the press.' This would 'merely... feed the national vice of self-complacency and would divert public attention from more urgent perils. The things that defile Ireland today come not from without, but from within.'⁹ *The Irish Independent* was more forthright:

There are stringent regulations to deal with the sale of anything that may prove poisonous to the body; but there is no attempt made by the law to prevent the indiscriminate circulation of imported papers that poison the soul... The witnesses should come in with their proofs in black and white... The fact that the vilest newspapers are flaunted in the face of the public every Sunday, while no prosecutions ensue, is evidence enough that the present law is powerless, unless, indeed, one assumes there is no desire to enforce it.¹⁰

A report prepared for the Committee by the Garda Deputy Commissioner, Eamonn Coogan, disclosed that only three successful prosecutions had taken place in five years, two of them in Dublin, where a chemist named Blake had been prosecuted in 1920 and another named Rice in 1925. Blake had been prosecuted under the Obscene Publications Act for advertising 'rubber goods' by post: the Divisional Justice had ordered the seizure of some 240 books from the premises, and he had given up the business. Mr Rice, prosecuted in the Central Criminal Court, was sent to jail for twelve months. In general, however, magistrates tended to throw out prosecutions, and the enthusiasm of the gardai was clearly lessened as a result.

The extent to which the magistrates' attitude may have mirrored a certain public lack of concern is open to question. What is undeniable, however, is that Fr. Devane and his allies were far from pleased with the public response to their crusade. Asked by the Committee's chairman, Professor Robert Donovan¹¹, whether the effect had been permanent, he replied: 'Absolutely, until the arrival of the Black and Tans. The difficulty we had was to get anybody interested. I say that with a certain amount of pain. I have always found it difficult to maintain public interest in the matter.' Later, in a letter to

8. 9 February 1926; italics in the original.

9. Undated cutting in the Committee files; probably circa 19 February 1926.

10. 19 February 1926.

11. Professor of English Literature at University College, Dublin. The other members of the Committee were Professor W.E. Thrift, TD, of Trinity College, Dublin, Thomas O'Connell, the Labour TD, the Very Rev. James Dempsey, Clontarf, and the Rev. J. Sinclair Stevenson of Killiney.

another member of the Committee, Fr. Dempsey, he complained: 'it is a pity we cannot get a few educated women to come forward and give their views on birth control propaganda. I think they would help to impress the Committee.' He had even, he also told Fr. Dempsey, failed to impress Mr. J.P. Clare, the Committee's secretary, with a display of the 'choice collection' of pornographic material from Mr. Frank Duff's collection. This new evidence suggests at least a minor qualification to Adams's suggestion that the Vigilance Associations 'represented a large body of opinion within the country'.¹²

12. Michael Adams, 'Censorship: the Irish experience', Dublin, 1968, p. 16.

The theme of the committee's work was immoral literature in general, but it focused, to a degree not mirrored in subsequent public or political discussions, on journalistic and periodical literature containing information on contraception in particular. The worthy bodies and individuals who gave evidence included the Catholic Writers' Guild, who deplored the lowering of standards in Irish newspapers as a result of competition from Britain; the Irish Retail Newsagents, Booksellers and Stationers Association, who complained that their trade had been 'much maligned on this question'; and the Catholic Truth Society of Ireland, whose evidence (including appendices) was later published as a 100 page pamphlet.

Brother Craven weighed in with a carefully crafted, and highly political, argument. In the course of a lengthy letter to the Committee detailing the results of his campaign, he noted that the opinions he had garnered had been expressed 'sometimes calmly, at other times with knitted brows and clenched fists, according to the principles of the speakers', and had focused on one central issue: 'Will the present government be returned at the next election?' His informants believed Cumann na nGael to be a 'weak-kneed government... which had allowed themselves to be gripped by the Freemasons'. He then delivered his killer punch – his respondents' growing belief that 'de Valera and his followers would be safer men.'

The relationship between the Committee and organized Church opinion, particularly Protestant opinion, indicates that a delicate form of political gamesmanship was being played on all sides. Mr. Stevenson, a Presbyterian minister, at first demurred at the prospect of inviting the Catholic Church, officially, to state its views: his criticism was met by a decision to extend the same invitation to all the major denominations. By and large, however, most declined: it is virtually certain that they had been informed privately of the Catholic hierarchy's decision to remain in the background. The Secretary wrote on behalf of the Committee to the Chief Rabbi, Dr. Herzog, without receiving any response. Nor was the Church of Ireland Young Men's Association any more forthcoming. The Church of Ireland Archbishop of Dublin, Dr. Gregg, told the Committee that he would be pleased to answer any questions that the Committee wished to put to him; his offer was not taken up. Methodists and Presbyterians, while expressing general goodwill for the Committee and its objectives, did not feel it necessary to make any direct input into its deliberations.

The heterodox case, however, did not go entirely by default. It is worth remembering that the Anglican communion had still to take a formal decision accepting the rights of married couples, in conscience, to use artificial contraception. Nevertheless there are, buried deep in the Committee papers, indications of independent thinking, of a cautious but clear-headed opposition to the prevailing climate of moral opinion. This is to be found chiefly in the minute of evidence from the Dublin Christian Citizenship Council, which was invited to submit its views at the urging of Mr. Stevenson. Although it was undoubtedly a self-appointed group, its membership deserved to be taken seriously: it included the Rev. H.B. Kennedy, Dean of Christ Church in Dublin, the Rev. J. Denham Osborne DD, and Professor J. T. Wigham. Dean Kennedy had already been lobbied by Devane in an unsuccessful attempt to enlist Church of Ireland opinion in favour of censorship of birth control information. Kennedy had replied, Devane told Fr. Dempsey, saying that 'many conscientious Christian' people believe in this practice. I suggested that a friend of mine would put some of this hideous literature at his disposal but he did not rise to the offer'.

The Council's submission was low-key but definite. It argued that

the State, in any action beyond its present powers which it may contemplate for the protection of its citizens from the effects of immoral printed matter, should have due regard to the necessity in a free country of preserving the freedom of the Press... Prohibitory legislation by itself would not be sufficient to cope with the evil of pernicious printed matter; the best method of dealing with that evil being the promotion of education, by better school attendance, by the establishment of town and village libraries, reading clubs, women's institutes, halls for music and drama, and other ways of evoking a love of good literature.

Although it thought it a good idea that the Government should appoint an advisory committee to advise the Minister for Justice on these matters, it suggested that additional legal sanctions should be applied only in the case of 'any person who for the purpose of profit send without a specific order matter relating to birth control or sexual relations to any person under 21 years of age.'

This modest proposal fell on deaf ears. The Committee's determination to outlaw birth control information – let alone advocacy – in totality was almost unanimous. It again fell to Mr Stevenson to issue a modest caveat when the draft report of the committee, urging a total ban on literature dealing with contraception, came to be considered. He commented on the draft report:

I should like to see some word like 'indiscriminate' added, for we are not done with this controversy, and thoughtful people will require to know what is being said on the subject, if only for purposes of refutation. It ought to be possible in this as in other subjects (e.g. medical) to frame regulations that would protect the ordinary young person and decent citizen from having undesirable things continually thrust under their noses without making it a criminal offence for the right people to make up the subject and find out at first hand what is being said and done elsewhere.

This intervention was enough to ensure that the committee's final recommendations included a suggestion that material dealing with birth control could be made available to 'authorised persons'. This amendment was, however, little more than a fig-leaf to cover the main thrust of its deliberations. Fr. Dempsey told the committee bluntly: 'The legislation is for the Free State. The Free State is mainly Catholic. The Catholic Church condemns all traffic in things relating to restriction of families, not merely the indiscriminate sale.' Fr. Dempsey also argued that the texts of classics for schools should be 'rigorously bowdlerised' (a proposal he later withdrew), and argued strongly against any artists being appointed to the proposed censoring committee. 'We know what they do in the name of Art', he commented grimly. Interestingly, he also suggested that censorship should leave alone what was merely vulgar. 'Charlie Chaplin is often vulgar; never indecent', he added by way of explanation. And he made a suggestion – also withdrawn from the committee's final report – that there should be 'something in the way of an Appeal Court' to which banned publications might have recourse.

Even before the publication of the Committee's final report, there were skirmishes in the shrubbery. Charles Eason, of the major wholesale and retail newsagents' firm, wrote to the *Irish Independent*¹³ to suggest that there was no need for additional legislation, only to be reproved sharply by the executive director of the Catholic Truth Society, Mr. F. O'Reilly, who argued menacingly that 'as one of the largest distributors of Catholic prayer books in Ireland, I would have expected him, consistently, to be one of the most emphatic in favour of banning printed matter advocating foul practices condemned by the Catholic Church'.¹⁴

13. 18 October 1926.

14. 20 October 1926.

Press reaction to the publication of the Committee's Report in early 1927 depicted, if anything, a further shift towards conservatism. The *Irish Independent* described the

Report as a model of brevity, and criticised it only on the grounds that it should also have recommended making the actual possession – and not just the importation or sale – of any contraband publications a criminal offence.

There is fortunately almost complete agreement amongst all creeds and sections in this country that there should be a specific prohibition against the unnatural doctrine of artificial birth control. The proposals embody no more attempt to interfere with the liberty of the Press or of the subject than does the legal code against criminal libel or against bigamy. The whole subject is one of urgency.¹⁵

15. 1 February 1927.

The Irish Times found 'little positive fault' with the Committee's recommendations, but struggled, without conspicuous success, to achieve a workable balance between a liberal Protestant ethic and demonstrable middle-class concerns. The country was going to pot, it averred – but censorship strove 'in vain' against most of the evils identified.

The proposed board of censorship for the inspection of printed publications, if it acts discreetly, may well do good work; but at best it can be only a desperate and insufficient remedy. Its very prohibitions may serve as potent advertisements, and it may render stolen fruit the sweeter. The board's power, moreover, could easily be perverted to the use of the faddist with an unhealthy mind. We have seen in Ireland attacks upon improper literature entrusted to young people who ought not to know that there is such a thing, and often the crusade has done more to taint innocence than the thing against which it was directed. A healthy child can be loosed among the classics without danger; but the little prig who is taught to peep for matter to denounce in every print hardly can fail to be infected... If old-fashioned manliness were revived among our people there would be no need for a censorship other than public opinion. If it be not revived, no Government can save the race.¹⁶

16. 1 February 1927.

One of the final ironies surrounding the Committee's work was that – despite its generally supine attitude – the publication of the report was greeted by the accusation, from Mr. O'Reilly, that its glancing reference to theories of overpopulation amounted to an effective endorsement of 'neo-Malthusianism'.¹⁷ Professor O'Donovan swiftly put the objector in his box. 'The majority of the committee', he wrote, 'are Catholics, and include a zealous Catholic priest. The statement is naturally offensive to them; and the presence of the clergyman in question might have suggested to Mr. O'Reilly that the Committee were not ignorant of Catholic teaching.'¹⁸

17. *Irish Independent*, 2 February 1927.

18. *Irish Independent*, 4 February 1927.

The debate in the Oireachtas on the measure that arose from the Committee's Report and ultimately became the Censorship of Publications Act 1929, was notable for the almost universal acceptance of the edicts against literature dealing with contraception, and the considerably more detailed discussion in relation to the proposed Censorship of Publications Board for books. A brief, but ineffectual, attempt was made in the Dail by Professor Michael Tierney and others to bring literature dealing with contraception under the jurisdiction of the Censorship of Publications Board, rather than making its importation a criminal offence. The Dail succeeded only in removing from the Bill a provision that local associations be set up to monitor evil literature in their areas (a proposal harking back to Fr. Devane's Vigilance Committees).

The debate was enlivened by a brief but thorny exchange between Mr. Sean Lemass and the Minister for Agriculture, Mr. Patrick Hogan. The former argued that it was dangerous to include the phrase 'public morality' in the Bill, given that the Government newspapers had consistently declared opposition to land annuities to be contrary to public morality. Mr. Hogan replied spiritedly that if this were the case, then questions of public morality could readily be extended to other matters – 'whether commandeering is

a proper word for robbery or theft, and I suppose the next time we are taking an oath we will call it an empty formula and push the Bible two feet away.¹⁹ Lemass, although he welcomed the Bill, warned that it was easy to go too far, and criticised in particular the vagueness of the phrase which condemned literature 'calculated to excite' sexual passion. 'It is obvious of course to everybody', he said, 'that sexual passion in itself is neither indecent nor immoral.'²⁰

It may not have been so obvious. The Minister for Justice, FitzGerald-Kenny, who had succeeded the murdered O'Higgins, set his face in particular against any open discussion of the matter of contraception. 'We will not allow', he told the Dail, 'as far as it lies with us to prevent it, the free discussion of this question which entails on one side of it advocacy. We have made up our minds that it is wrong. That conclusion is for us unalterable.'²¹ It was left to Sir James Craig to register a somewhat muted objection.

I have fairly settled views on this matter which I am not able to express in public... I would have entire sympathy with those who are writing articles from the broad economic or social point of view that would, at all events, insist on some efforts being made to exert control over birth.²²

He succeeded only in securing the insertion of a provision giving the Minister power to allow suitable persons to import literature dealing with contraception, by giving them permission in writing, 'for reasons which appear to him sufficient'.²³

A subsequent act, in 1946, created a right of appeal, including a right of appeal by five members of the Oireachtas, against decisions of the Censorship of Publications Board. The question of advertisements for contraceptives, the ban on which had in the meantime been reinforced by the Criminal Law Amendment Act²⁴, did not even arise for discussion, as it remained within the ambit of the criminal law, and did not come within the remit of the appeals mechanism being established. Neither was it even mentioned during the discussions on Mr. Brian Lenihan's 1967 Censorship of Publications Act, which ensured that banned books would be automatically unbanned after 12 years on the list of prohibited publications. It is interesting, nonetheless, to note that Mr. Lenihan's Bill to some extent represented a watershed. Less than 10 years earlier, unknown to the general public, the Catholic hierarchy had written to the Taoiseach, Mr de Valera, urging a strengthening of the legislation on censorship, with greater powers for the gardai and an enlarged Censorship Board, working in sub-committees. Mr. de Valera wrote back to the secretary of the hierarchy's Standing Committee, Bishop James Fergus of Achonry, observing that 'any extension of the powers of the Garda would require legislation' and that 'there would be serious difficulties in framing such legislation which would both be effective and secure majority acceptance.' In relation to the workings of the Censorship Board, he pointed out to their lordships that the constitution and functions of the Board had been decided on 'specifically as safeguards against any abuse by the civil authorities'. A considerably larger number of members working in groups as suggested by the bishops, he warned, 'would find it very difficult to maintain uniform standards of judgement and... in consequence of this, there might be a serious growth in adverse criticism of the censorship arrangements.'²⁵

The ban on public information about contraception, together with the related ban on the importation, advertising and sale of contraceptives, was finally abolished in Mr. Charles Haughey's Health (Family Planning) Act²⁶ half a century after it had first been imposed. Much had changed in the interim - but not everything. Sections 12 and 13 of that act, which repealed the provisions banning information about contraception in legislation dating back as far as the Indecent Advertisements Act 1889, retained the power which the Censorship of Publications Board had been given by the 1929 legislation to ban any periodical publication which has 'devoted an unduly large proportion of space to the publication of matter relating to crime.' That provision still stands.

19. *Dail Debates*, Vol. 26, Col. 830, 24 October 1928.

20. *Dail Debates*, Vol. 26, Col. 639, 18 October 1928.

21. *Dail Debates*, Vol. 26, Col. 608, 18 October 1928.

22. *Dail Debates*, Vol. 27, Col. 707, 28 February 1929.

23. Censorship of Publications Act 1929, S. 16 (4).

24. No. 6 of 1935, S. 17.

25. De Valera Archive, Killiney, Co. Dublin, File 1299. The correspondence referred to took place in 1958.

26. No. 20 of 1979, S. 12.
