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# Censorship in British Broadcasting: The Government's Role

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## Censorship in British Broadcasting:

### The Government's Role

You cannot tell it by watching British television, but the political process of broadcasting in Great Britain is a complicated one. In it are government laws restricting free speech and committees of government officials who have the power to decide what should and should not be broadcast.

The British government has a great hold over its two broadcasting companies, the British Broadcasting Corporation (BBC), and the Independent Broadcasting Authority (IBA), with its media control laws, especially the BBC since its Board of Governors is appointed by Parliament. Although broadcasters would not readily admit it, they are accountable to the government for what they broadcast by the Official Secrets Act of 1911 and the Defense and Broadcasting Committee, otherwise known as the D-Notice Committee. Since Britain has no written constitution to protect freedom of speech as the United States has, these two bodies, as well as a few other minor ones, are the backbone of press censorship in British media today.

The government's control over media started long before television was invented with the Official Secrets Act of 1911. This Act is the foundation of all government control in media. The act deals with the unauthorized release of material to

outside sources. Initially, the Act was intended to control civil service workers by preventing them from leaking government information to the public.<sup>1</sup>

The Official Secrets Act was set up as follows:

Section 1 of the 1911 Act requires that the (offense) must involve a prohibited place or material which would be of interest to an enemy in order to constitute an offence. The short title of this section is 'penalties for spying' although ... this section can<sup>2</sup> be used to punish persons who are not in fact spies.

The second section of the Act goes on to restrict the wrongful communication of information and this includes any information of an official character, irrespective of its nature and irrespective of any purpose; the offence is communicating information without authorisation or to an unauthorised person, or retaining any document contrary to duty.<sup>3</sup>

The Act goes on to say that the mere receipt of information is unlawful as is its further transmission.

Under this Act, both the informant and the recipient are liable to prosecution, whether or not either knew that the information they were giving or receiving was classified.

Technically, a journalist is in breach of the act whether or not the information is published, just because he willingly received the information.<sup>4</sup>

Recently, the Official Secrets Act has undergone a reform, called the Second Reform. This reform creates two new offenses. Now it is illegal to relay information published elsewhere if it is deemed as prejudice to the state (before, if the material was published outside Great Britain, then usually, it would be legal in Britain). This has been put into effect recently with the Peter Wright book, Spy Catcher, about the secret

happenings of the British Secret Intelligence Organization, M15, which has been banned in Britain.<sup>5</sup>

The second new offense is to publish information that could damage relationships with friendly foreign powers.<sup>6</sup> This severely curtails what the press can and cannot say. After the U.S. attack on Libya in 1986, the BBC was accused of "enlisting the sympathy of the audience for the Libyans and to antagonise them towards the Americans,"<sup>7</sup> with their coverage of the bombing. With this new law, the British government could have easily brought charges against the BBC for its "irresponsibility."

Another recent episode involving the Official Secrets Act started in January 1987. That is when the BBC studios in Glasgow were raided by police for the master tapes and related materials on the program "Secret Society."<sup>8</sup> The six-part series concerned secrecy in the government. The first episode, Zircon, exposed the fact that most of Parliament knew nothing about a new spy satellite to be launched in the near future.

After receiving two different search warrants, the police got a third "redefining the offence to include everything under Section 2 of the Official (Secrets) Act ..."<sup>9</sup> So the BBC had no other choice, but to give them everything.

In an article written over a year later, Alan Protheroe, BBC Assistant Director General, who was present at the raid, reflected, "... the programme ("Secret Society") concerned matters of legitimate public interest and concern (whose) peremptory seizure (by the authorities was a) shabby, shameful, disgraceful incursion into a journalistic establishment."<sup>10</sup>

In the same article, Duncan Campbell says that "the banning of Zircon had little to do with national security considerations and a great deal more to do with ... politically-motivated pressure."<sup>11</sup>

So under the Official Secrets Act, the government could have this program, <sup>banned</sup> although no security matters were really at stake. As a result, the government showed that it did have the power of censorship. Although the program was later aired, it had undergone many changes and another episode in the "Secret Society" series about corrupt election campaign practices was not.<sup>12</sup>

But the Official Secrets Act is not the only thing broadcasters must consider before airing a program. To check if something might be prejudice against the state, broadcasters check with the Defense and Broadcasting Committee, or the D-Notice Committee. This is the "second front-line of advance censorship for the press on so-called national security matters."<sup>13</sup>

The D-Notice Committee was formed in 1912 when the press formed a voluntary cooperation with the government concerning the publication of defense and military matters.<sup>14</sup> The Committee, which has a secretary from the Ministry of Defense as its head, sends out a list of about eight subjects, or D-Notices, which could lead to breaches of security. Editors of the various media organizations are expected, but not forced, to get approval on stories concerning these subjects with the secretary from the Ministry of Defense.<sup>15</sup>

The subjects of a D-Notice may cover "naval, military, and air matters, the publication of which would be

prejudicial to the national interest."<sup>16</sup> But the D-Notices may cover more general subjects, if it can be shown that the subjects are related to military matters.<sup>17</sup>

The government likes D-Notices because they are a method of controlling what is printed and said in the press without having to pass censorship laws which could be scrutinized in the courts.<sup>18</sup>

The D-Notices have no legal standing, however, and are not mandatory,<sup>19</sup> but if disregarded, and the matter goes to court, then it will look bad on those who disregarded the notice.

D-Notices involve elements of guidance and proposal: guidance in that if the defense authorities see something as secret, it gives an editor warning of their thought. It is a proposal when it asks for self-restraint even when the Official Secrets Act does not apply.<sup>20</sup>

The D-Notice system has been in question in recent years, because the system can only work when both the government and journalists agree on what "national security" means. This agreement is slowly dissolving and the purely voluntary agreement of the D-Notice system is, in effect, dying.<sup>21</sup>

In December 1987 editors of broadcasting and newspapers threatened to abandon co-operation with the D-Notice system after the government successfully stopped the broadcast by the BBC of a radio programme on the security services, "My Country Right or Wrong." The programme had been discussed at length with the Secretary of the D-Notice Committee who had raised no objections. The government, however, ignored the committee and prevented the broadcast through the courts in a hearing of which the BBC had no notice and at which it was not present.<sup>22</sup>

If the government can do this completely behind the BBC's back, so to speak, then it can get away with virtually anything.

A system of inner control is the Referral and Consultation system. According to the BBC, it "is the means by which the BBC deals with contentious editorial issues. These include scenes of extreme violence, explicit sex, interviews with terrorists, (and) defamation ..."<sup>23</sup>

BBC producers are encouraged to use their own judgements as to whether something goes against the grain of BBC editorial policy. If they are in doubt, they use the Referral and Consultation system by consulting their Head of Department or Regional Controller. Some issues of more importance have to be discussed with the Directors of the individual networks, and, in rare instances, the issues must be discussed with the Managing Directors, who are just under the Board of Governors of the BBC.<sup>24</sup> This just provides a long list of people to delay the broadcast of sensitive material.

Some referrals are mandatory and must be cleared before the programs can be aired. Some of these are proposals to record interviews with known terrorists, recording of interviews with spokesmen for known terrorist organizations, and national security matters. Also, all program proposals about Northern Ireland must be cleared with the Controller of Northern Ireland or his senior staff before the production starts.<sup>25</sup>

All of this censorship concerning Northern Ireland raises another problem. As was just mentioned, all interviews with

terrorists must be cleared, but this is not the extent of the law. In a letter from Douglas Hurd, Home Secretary, to the BBC on 19 October 1988, it was required that the BBC, or the IBA for that matter,

refrain at all times from sending any broadcast matter which consists of or includes--any words spoken, whether in the course of an interview or discussion or otherwise, by a person who appears or is heard on the programme in which the matter is broadcast where--the person speaking the words represents or purports to represent a (known terrorist) organisation ... (or) the words support or solicit or invite support for such an organisation ... 26

The eleven organizations covered by the new rule include The Irish Republican Army (IRA), The Irish National Liberation Army (INLA), and Sinn Fein (who have an elected member of Parliament from their organization). This makes it hard to cover political campaigns, because candidates who are members of these organizations, cannot give live speeches over the air. A reporter must read what the person said, but the actual actuality cannot be broadcast.

In Northern Ireland where it is illegal to broadcast an interview with a known member of a member of Sinn Fein, because it is an illegal political party,<sup>27</sup> one minister validated his country's ban by saying, "the ban is intended to prevent access to the national airwaves of members of organisations which include murder as part of their published policy; access would lend validity and respectability to these people."<sup>28</sup> This was countered by The Irish Times, "There is no more effective way of countering IRA propoganda than by letting it stand on its own merits in the market place."<sup>29</sup> This is just what the country should do, but instead, Margaret Thatcher would rather only have her views listened to.



Another form of censorship is located in the BBC itself. The Board of Governors, who ultimately say what can and cannot be broadcast, are basically a censorship board of the government. The current Board of Governors are all Conservative party members, and, as such, almost totally agree with government requests. Recently, a program called "Real Lives," a documentary about Northern Ireland, was banned, "in response to an open Cabinet demand for censorship."<sup>30</sup> The governor's decision, in the mind of many British journalists "told the world that the BBC is an arm of government."<sup>31</sup> According to New Statesman, "It is now true (that the BBC is a censorship arm of government), and it will continue to be so until this entire board of governors resigns."<sup>32</sup> The only chance for a major change such as this will be when a new party gains control of Parliament.

But this is not the only form of internal censorship at the BBC. It is a little known fact, but one that has been coming increasingly in the open for the last couple of years, that the BBC clears its journalists before they are hired. "A senior officer in M15, the branch of British Military Intelligence that deals with internal subversion," works at the BBC. "His job is to 'vet' applicants for jobs in the BBC and to ensure that nobody 'unsound' is hired by the nation's flagship."<sup>33</sup>

This practice started during World War II to screen out journalists who were not capable of keeping certain information secret. "Unfortunately, habits of surveillance and interference

are more easily acquired than lost and (these) Brigadier ... types discreetly 'stayed on' after 1945."<sup>34</sup>

So now the journalists of the BBC have to keep a constant watch of what they say so as not to offend the Brigadier and thus lose their jobs. This creates an air of tension so the journalists cannot work freely,<sup>35</sup> and as such they cannot always openly express their views.

In the United States there are laws to help get around the natural tendency of the government to withhold material from the public. They are the Sunshine Act and the Freedom of Information Act.

The Sunshine Act was passed in 1976. It "makes the deliberations of agencies, as well as their final actions, open to public scrutiny."<sup>36</sup> This act opened the doors of local and state government meetings to let the press to attend.

The more widely known, and used, Freedom of Information Act, passed in 1966, requires all federal and independent regulatory agencies to publish in the federal register and to make available to people who request it, any information, documents, or records about an agency's activities or doings as long as it is not expressly denied disclosure in the act itself.<sup>37</sup> This list of agencies include any executive department, military department, government owned or controlled corporation or any other federal office in the executive branch.<sup>38</sup>

But the ease of access to this government information cannot be taken for granted, because the access allowed is,

in reality, granted by the kindness of the current legislature and executive branches of government. They can amend the act whenever they want to.<sup>39</sup> An example of this was an executive order issued in 1982 which proposed the standard, "when in doubt (as to whether a document should be kept secret from the public), classify,"<sup>40</sup> because the public does not have access to classified documents.

Another way a lot of information is given to the press is by civil service workers. The U.S. government has a way of controlling this leakage of information. The government requires "government employees to sign non-disclosure contracts of lifetime duration, under penalties ranging from loss of employment to prison sentences."<sup>41</sup>

But do not think for a moment that the U.S. government has absolutely no control over the media in the U.S. Through the Defense Department and the Central Intelligence Agency(CIA) the government has successfully stopped publication of materials they did not want published, have "changed" information to suit their purposes, or controlled the journalists who reported it.

The CIA regularly threatened to bring espionage charges against major news organizations for their coverage of leaks of information from top government officials. In May 1986, they succeeded in having The Washington Post cut information from a story about a convicted spy.<sup>42</sup>

In 1986 the Defense Department admitted that they had given out false and misleading information on several occasions. This was to "impede the transfer of technical data to the

Soviet Union."<sup>43</sup> Also, all overseas manoeuvres, that are covered by the press, must be covered by "Pentagon-supervised press pools." A practice that started after the total press ban during the 1983 invasion of Grenada.<sup>44</sup> These little things shut the door on important information that is in the public interest.

And just as the government starts controlling the media more and more in both countries, the British are undergoing an upheaval of sorts. The Freedom of Information Campaign has been raging in Britain for over ten years. "A broad alliance of groups and individuals, has sought new legislation to open up central and local government and to reform the Official Secrets Act ..."<sup>45</sup>

The group has won some of its battles. More access to local council meetings, which includes access to sub-committees, agendas, documents, and meeting reports in its provisions, was won with the Local Government (Access to Information) Act of 1985. Also individuals now have the right to see documents concerning themselves in the Access to Personal Files Act 1987.<sup>46</sup> But these are only a few small steps on a long footpath to freedom of information and freedom from censorship.

Although Britain has come a long way from the Official Secrets Act, it still has a long way to go before the press can experience freedom. The Committees and internal pressures will have to be removed before this can come about. Although the D-Notices and journalist screening served their purpose during the war, are these archaic practices still needed? Britain needs to move ahead and eliminate these outdated

practices. With the ban on interviews with known terrorists, it seems as though Britain has taken a giant step backward on its road to press freedom. Now listeners and watchers of British media cannot always be sure that they are getting the objectivity that they have come to expect from such institutions as the BBC. It just proves to the world that Britain is not a totally free country, especially in the area of informing the public as to the happenings in government. Perhaps that is an idea that we in the United States have taken for granted since the Watergate scandal of the early 70's and the Iran-Contra scandal of the mid-eighties when government corruption was exposed. The only way change of this sort will come about in Britain is when the British public realize what is being withheld from them and they decide to change it by electing officials who can change the laws. With the recent changes such as the Local Government Act and the Access to Personal Files Act, this seems inevitable.

Only then, hopefully in the near future, can the world turn once again to the BBC for unbiased coverage of news events.

## Notes

<sup>1</sup>K.G. Robertson, Public Secrets: A Study in the Development of Government Secrecy. London: MacMillan Press, Ltd., 1982, p. 63.

<sup>2</sup>Robertson, p. 67.

<sup>3</sup>Robertson, p. 67.

<sup>4</sup>BBC. Producer's Guidelines. London: BBC Press, sec. 11.2.

<sup>5</sup>Graham Murdock. Lecture at Leichester University, 7

June 1989.

<sup>6</sup>Murdock.

<sup>7</sup>Kenneth Slack. "BBC under Fire," The Christian Century, vol. 193, 3 December 1986, p. 1086.

<sup>8</sup>Patrick Forbes and John Lloyd. "The Aim was Intimidation," New Statesman, vol. 113, 6 February 1987, p. 8.

<sup>9</sup>Forbes, p. 9.

<sup>10</sup>Duncan Campbell. "Filing Cabinet," New Statesman & Society, vol.1, 26 August 1988, p.19.

<sup>11</sup>Campbell, p. 18.

<sup>12</sup>Campbell, p. 18.

<sup>13</sup>David Leigh. The Frontiers of Secrecy: Closed Government in Britain. London: Junction Books, 1980, p. 57.

<sup>14</sup>Robertson, p. 75.

<sup>15</sup>Article 19. Information, Freedom, and Censorship: World Report 1988. New York: Times Books, 1988, p. 235.

<sup>16</sup>Robertson, pg. 75.

<sup>17</sup>Robertson, p. 75.

<sup>18</sup>Robertson, p. 76.

<sup>19</sup>Robertson, p. 76.

<sup>20</sup>David Williams. Not in the Public Interest: The Problem of Security in Democracy. London: Hutchinson & co., Ltd., 1965, p. 83.

<sup>21</sup>Leigh, p. 58.

<sup>22</sup>Article 19, p. 235.

<sup>23</sup>BBC, appendix 2.

<sup>24</sup>BBC, appendix 2.

<sup>25</sup>BBC, appendix 2.

<sup>26</sup>BBC, appendix 5.

<sup>27</sup>Janet Wilson. "Cracking down on Coverage: Britain's Blurred TV Picture," Columbia Journalism Review, vol. 27, May/June 1988, p. 33.

<sup>28</sup>Article 19, p. 198.

<sup>29</sup>Article 19, p. 198.

<sup>30</sup>"The BBC is now an Arm of Government," New Statesman, vol. 110, 2 August 1985, p. 2.

<sup>31</sup>"The BBC is now an Arm of Government," p. 2.

<sup>32</sup>"The BBC is now an Arm of Government," p. 2.

<sup>33</sup>Christopher Hitchens. "Pressure Points: The BBC's Darkest Hour," American Film, vol. 11, December 1985, p. 32.

<sup>34</sup>Hitchens, p. 33.

<sup>35</sup>Hitchens, p. 33.

<sup>36</sup>Article 19, p. 120.

<sup>37</sup>Harvey L. Zuckman and Martin J. Gaynes. Mass Commu-  
nications Law in a Nutshell. St. Paul, MN: West Publishing  
Co., 1983, p. 166-167.

<sup>38</sup>Zuckman, p. 174.

<sup>39</sup>Zuckman, p. 166.

<sup>40</sup>Article 19, p. 120.

<sup>41</sup>Article 19, p. 122.

<sup>42</sup>Article 19, p. 122.

<sup>43</sup>Article 19, p. 123.

<sup>44</sup>Article 19, p. 122.

<sup>45</sup>Article 19, p. 238.

<sup>46</sup>Article 19, p. 238.



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