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How to treat obscenity

As a parliamentary draftsman of 23 years standing and the assistant draftsman of the Obscene Publications Act 1959, I cannot congratulate Mr Rees Davies MP (20 March 1976) on the drafting of his definition of obscenity, with its appeal to 'contemporary community standards of decency'. A vaguer criterion can scarcely be imagined, and criminal law demands certainty above all. Furthermore it disregards the question (which the 1959 Act does not) of who is the likely audience. Mr Rees Davies then talks of material which 'appeals to depraved instincts', but that is inaccurate and begs a very large question. Instincts are inborn, and even if they could be 'depraved' there is scope for endless argument about whether the appeal of a particular item is to instincts which are 'depraved' or merely those which are thwarted, repressed or otherwise unfulfilled.

On another point, in your issue of 20 March 1976 both Mr Rees Davies and (in an article) Mr R P C Hanson base opposition to pornography on its *commercial* exploitation. This is no objection at all. We expect commercial interests to provide for our wants: our society is based on that principle. All that widespread commercial exploitation of pornography proves is that there is widespread demand. Whether the criminal law should take it upon itself to suppress that demand, and seek to make sure it is unfulfilled, is a weighty question. My own view is that only proof of serious harm justifies such suppression, and that proof is not forthcoming.¹

¹ *The Times*, 25 March 1976.