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Mary Whitehouse prosecutes for blasphemy

This Society[1] is concerned at the way a safeguard provided by Parliament for the press has recently been turned round and used as a weapon against the press. I refer to the prosecution for blasphemous libel instituted by Mrs Mary Whitehouse against *Gay News* and others when committal proceedings before a magistrate were avoided by obtaining a bill of indictment from a High Court judge in chambers. In a leader on 6 January 1977, you specified as a reason for choosing trial by jury that by the time the case comes for trial 'the defence knows exactly what the prosecution case is' (because it will have been fully presented in the committal proceedings). In the current Whitehouse prosecution the defence has been deprived of that safeguard. Why? The answer is not altogether clear. In a letter to our Chairman, Mr Ben Whitaker, the Lord Chancellor wrote that the bill of indictment in this case was issued not under the Administration of Justice (Miscellaneous Provisions) Act 1933 (which gives power to short-circuit committal proceedings, primarily designed for use where magistrates contumaciously refuse to commit) but under section 8 of the Law of Libel Amendment Act 1888. This is the safeguard for the press mentioned above. It was enacted to relieve newspapers from a rash of private prosecutions, or threatened prosecutions (which had to be bought off). It prohibits the bringing of a criminal libel prosecution against a proprietor, publisher, editor or any person responsible for the publication of a newspaper without an order of judge in chambers. In no way does it authorise the short-circuiting of committal proceedings.

Mr Denis Lemon, one of the defendants in the Whitehouse prosecution, has stated that there were two hearings in chambers. At the first the judge made an order under the 1888 Act, while at the second he granted a bill of indictment under the 1933 Act. It seems therefore that the Lord Chancellor was wrong in his reply to Ben Whitaker. Being obliged to apply to the judge for an order under the 1888 Act, the prosecution seized the opportunity to avoid committal proceedings and the judge fell in with that. The 1888 Act was passed for the *protection* of newspapers. If it is to be used on occasion for avoiding committal proceedings newspapers will not be protected but positively harmed. As in the *Private Eye* case mentioned by Mr Patrick Marnham (letters 2 June 1977) the reasoning of the judge is unknown because the entire proceedings took place behind closed doors. This seems to us a matter for disquiet.[2]

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[1] The Defence of Literature and the Arts Society (now Campaign Against Censorship). FB was at that time a member of its executive committee.
[2] *The Times*, 17 June 1977.