

~~Handyside v. United Kingdom~~
~~(1976)~~
~~47~~

UK suppressed The Little Red Schoolbook which commented favorably on smoking pot, sex, and pornography.

How would this case be handled in the US?

Compare the definition of obscenity on 49 with the US definition (1) *appeals to prurient interest*
As applied to minors?

Why was the book suppressed in the UK?

Look at their statute on page 49 and discuss.. What was the London court concerned about? Encouraging criminal violations?!

(2) *patently offensive [explicit] [ultimate acts]*
(3) *no serious literary, artistic, political or value, scientific taken as a whole*

How does the Court handled this matter?

Commission had ruled 8-5 to support the UK decision. Court agrees that deference or a "margin of appreciation" should be given to the state in this kind of a case ~~where~~ case where values are in a state of ~~the~~ transition

Is para. 2 of article 10 a carte blanche for censorship? See p. 54

"Deprave & Corrupt" -- encourage to commit criminal acts?! 51 3/4

What is meant by the "margin of appreciation"? 53/55
What is the significance of the fact that the book was circulating in most other European countries? 55B

Sunday Times was enjoined from publishing an article on the thalidomide cases which had dragged on for several years on the ground that its article might prejudice the course of justice. The draft article is on 59-61 and it presents material on both sides of the controversy, although it clearly indicates that the manufacturer (Distillers) had ignored relevant evidence against it.

What was the test used by the trial court?

Whether "in all the circumstances of the particular case, the words complained of created a serious risk that the course of justice might be interfered with, irrespective of the writer's intention or the truth of the writing."! 62½

And in this case, the conclusion was that there had been a deliberate attempt to influence the proceedings.

House of Lords approved.

Meantime, the Phillimore Committee recognized that the standards governing contempts were not crystal clear and proposed a test at 64-65 that would require a showing of a more serious risk and allow the defense that the discussion was part of "matters of general public interest" with only an incidental effect on the pending proceeding.

Commission voted 8+5 that there had been a breach of Art.10/

Court agrees, emphasizing the right to receive information as an essential component of Article 10, 69B, 70½, and introduces a balancing test, or one of proportionality, 70/71
Eight dissenters!

Laws of Northern Ireland prohibited certain forms of consensual homosexual acts, even if private.

Ct., rules that this violates Article 8 which protects one's private life.

What about the protection of morals? See 103 $\frac{1}{4}$ --that refers to the protection of "the moral ethos of society" but does not permit infringement upon private life to protect those morals! It does permit restrictions on the homosexual activities of persons under 21.

104 $\frac{1}{4}$: "the available evidence does not suggest that to allow private acts between consenting adults would have any very significant impact on public morality...."!

True or false?