Deciduous trees, well-developed in late Mesozoic time, the era of middle or intermediate evolution of life, have remained dominant in the Cenozoic, or era of modern or recent life, with much further diversification. Continued evolution of plants includes development of grasses, cereals and fruits, which have become suitable foods for specialized types of animals. Birds have evolved from the Mesozoic reptilelike ancestors into a legion of modern forms. Mammals, small and primitive in early Cenozoic time, rapidly became diversified, commonly with increase in size. Some large types became extinct in mid-Tertiary; others, including horses, elephants and camels, evolved with continued specialization and generally increased size into the Quaternary. Primitive men lived in early Pleistocene time, and modern man witnessed widespread glaciation in northern lands. In addition to the separate articles on the periods and epochs of the Cenozoic referred to above *see* GEOLOGY; PALEOBOTANY; PALEONTOLOGY. (C. R. L.)

CENSER: *see* INCENSE.

CENSOR, in ancient Rome, the title of two magistrates who took the census (from Lat. *censere,* "to assess"), the registration of individual citizens and property. Instituted in 443 B.C., perhaps to relieve the consuls of this duty, they were, like them, elected in the *comitia centuriata* (*see* COMITIA), and only with a consul presiding. At first patricians alone were eligible, but plebeians were elected from 351 onward. Re-election was prohibited in 265. Intervals between elections were about five years, but tenure was limited to 18 months. Acts of one censor were invalid without the assent of his colleague, but decisions of the two were valid without appeal. As no substitutions were allowed, the death or abdication of one censor removed his colleague from office. Their acts did not bind their successors. Though without imperium (*see* EMPIRE), fasces or lictors (*qq.v.*), they held the highest auspices, sat on curule chairs, wore the *toga praetexta* (the toga with a purple border worn by curule magistrates).

The functions of the office eventually raised it above the consulship in dignity, and made it the crown of a political career. After 300 B.C. all but three censors were of consular rank. Their functions were: (1) the registration of citizens, old and new, with estimates of the value of their property, in tribes and classes, the former as a basis for voting in the tribal and plebeian assemblies, and for the levy for military service, the latter for assignment to centuries in the centuriate assembly; (2) the assessment of liability to tax based on the value of the citizen's property; (3) exclusion from public functions, such as a place in a tribe or a century, voting, military service, membership in the equites (*q.v.*), change of tribal registration, and assignment to the *aerarii* (*q.v.*), of citizens on moral grounds for disgraceful or criminal acts. (This function was known as the *regimen morum* or guardianship of public morals, and the action resulted in a stigma, *infamia*); (4) a solemn religious act of purification of the citizen body and vows for its future well-being (lustrum), which closed the census. Subsequently further functions were added: (5) the selection of the senate (*q.v.*), just before 312 by the *lex Ovinia;* and (6) various financial functions such as the leasing of contracts for the repair and the construction of public buildings and for the collection of taxes.

The censorship was suspended during the dictatorship of L. Cornelius Sulla and suspended, not abolished, during the rule of the emperor Augustus. The last regular censors were elected in 22 B.C., but the emperors assumed censorial powers; Claudius (A.D. 47–48) and Vespasian (in 73) took the title, and Domitian was censor for life.

In modern times the word "censor," apart from its use in connection with censorship proper (*see* CENSORSHIP), is used in some institutions, notably in academic ones, for one who exercises supervision over the conduct of others: for instance, as a title for certain offices in some universities in the United Kingdom. The Council of Censors, in U.S. constitutional history, was the name given to a council provided by the constitution of Pennsylvania, 1776–90, and by the constitution of Vermont, 1777–1870. Under both constitutions the Council of Censors was elected once in seven years, to inquire into the working of the government departments, the conduct of the state officers and the working of the laws, and to discover whether the constitution had been violated in any particular. The Vermont Council of Censors, limited in number to 13, had power to call a convention if it thought the constitution required amending. A convention summoned by the council in 1870 amended the constitution by abolishing the censors.

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(T. R. S. B.)

CENSORSHIP. "Every idea is an incitement," said Justice Oliver Wendell Holmes. Censorship—*i.e.,* restriction on ideas prior to, or prosecution following, their publication—historically was based on the principle that ideas are always important as incitements to action, as guarantors of salvation or damnation of the soul or as confessions of character, and therefore in any case a matter of grave social concern. Recognition of what Holmes spoke of as "free trade in ideas" was a late development in history and has never been universally accepted. The history of censorship demonstrates that every idea may be an incitement to persecution.

But the history of censorship, fortunately, was also the history of liberty and toleration; otherwise there would have been no growth of political, social and religious ideas, and mankind would be without an intellectual history. Certainly a large part of history was the struggle of liberty against forces of repression—against ignorance and superstition, love of ease and fear of change, vested interests and love of power.

It seems that historically religious ideas were the first target of censorship, through persecution for blasphemy and heresy; then with the development of strong states came political ideas, with persecution for sedition and treason; most recently came ideas relating to the emotional and, more especially, the sexual nature of man, leading to persecution for obscenity. New means of communication called for new measures of control; this was true of the printing press, the cinema, the radio and television, the establishment of public libraries, the development of textbooks for school use and the introduction of the paperback book and the comics.

HISTORICAL DEVELOPMENT

Means.—The English common law as known to Sir William Blackstone conceived of censorship as previous restraint on publication. This form of censorship was achieved through official licensing of newspapers, plays and books, or their suppression before publication. Another form of previous restraint was the requirement of a licence to permit distribution of a publication in a public place or from door to door, or to permit the making of a speech in a public place. Previous restraint was also imposed on the disclosure of official data considered confidential, secret or restricted—*i.e.,* censorship on sources of information. When suppression could not be achieved the government resorted to prosecution after publication, charging that the matter published or distributed constituted a criminal offense for which imprisonment or other punishment was the sanction.

Censorship was also achieved through administrative withholding or withdrawal of postal privileges or punishment for illegal use of the mail, and through bans on imported books imposed by customs officials.

Legislative investigations into opinions, affiliations and publications have had the effect of censorship, mainly, perhaps, by leading to self-policing policies adopted by some communications industries seeking to ward off legislative enactments that would mean governmental control or regulation. The effects of censorship were also accomplished by voluntary citizen groups which used persuasion or mass pressure, involving the threat of economic boycotts, to keep publications that they considered offensive off newsstands and bookstalls and to edit or suppress movie scripts.

Greek.—For the western world it may be that the Athenians and Ionians were the first to assert the principle that persuasion is better than coercion. The first laws that imposed limits on

speech were those that protected reputation. Truth, however, was a defense, so that the major value remained liberty of expression, not security of reputation. Philosophers questioned the appearances of the material world, and sophists and dramatists placed before the masses questions that went to the foundations of the political, religious and moral world.

But occasionally there were instances of repression and persecution. In Periclean Athens (5th century B.C.) the philosopher Anaxagoras was fined for impiety. Likewise Protagoras was charged with blasphemy; he fled from Athens but his books were burned. Euripides probably was prosecuted for impiety. A law repressing dramatic invective was enforced for two years in wartime but was repealed in 437 B.C. Phrynichus was fined for presenting a play that brought to mind the destruction of Miletus, and the Athenians "forbade forever" the acting of that (lost) play. These laws seem not to have intimidated authors and philosophers. In fact, free speech came to be accepted as the most important differentiation between the citizen and the slave or the alien.

Yet history concedes that the most famous Athenian of all, Socrates, was the first martyr to freedom of speech. Socrates was executed in 399 B.C., when he was 70 years of age. Because he exercised freedom of inquiry to the annoyance of some fellow citizens, Socrates was charged with worshiping strange gods and corrupting the youth.

In Plato's *Apology* Socrates pleaded for intellectual freedom by asserting the supremacy of his conscience over the verdict of the jury and by maintaining that when he exercised freedom of inquiry he was a public benefactor—that free discussion had a supreme public value. Socrates was, then, not only the first great martyr to freedom of speech, but also the first philosopher to formulate a rational, principled defense of this freedom.

His pupil Plato cannot, however, be reckoned among the defenders of intellectual liberty. In his *Republic* Plato said that he would, in the ideal state, establish a censorship of fables. Censors would reject and prohibit tales that they considered bad, and mothers and nurses would be permitted to relate to children only authorized tales. Furthermore, he would censor the plays of dramatists who tell untruths about the gods. Art, to Plato, could function only as an aid to education; and what might be harmful to the young should be prohibited. In the *Laws* Plato would punish for impiety in deed or word.

The point of view of Plato is one that dominated Greek and Roman society and much of Christian civilization: namely, that religion is not a purely personal affair; that a man lives his life—and his religion—openly, in the city, in public view. From this standpoint censorship is inevitable. The view that public life does not exhaust man's nature, that man has also a private life, that his religion and opinions are his private affair and that therefore he must have and enjoy liberty of conscience—this view was a late development in history.

Roman.—Although the word "censor" is derived from the ancient Roman censor (*q.v.*), a public official who had charge of the census and supervision of public morals, one does not find much about censorship in ancient Roman history. During the republic the liberty to criticize was highly valued. Lucilius, Catullus and other writers published strong epigrams against Pompeius (Pompey) and Caesar by name and there were at that time many political pamphlets in circulation that spared neither names nor insults. During the Second Punic War only Naevius was brought to punishment for ridiculing a leading Roman family. According to some authorities this satirist was punished on the basis of a provision in the Twelve Tables (451 B.C.) protecting reputation from offensive speech. Early in the 2nd century B.C. a law imposed a fine for defamation by name from the stage. But under the empire restraints appeared in the senate, the popular assembly and the courts. Virgil and Horace hid their meanings in cryptonyms because repression was extended from drama to verse.

There were prohibitions against seditious speech and writing. Yet the tradition of free speech was strong and many instances of unrestrained speech survived. Augustus (27 B.C.–14 A.D.), by extending the *lex majestatis*, made it possible for his successors to repress criticisms. In A.D. 8 he banished Ovid. Tacitus cites cases of severe punishment for writings allegedly seditious but certainly scurrilous. Caligula (37–41), when overcome by illness, used harsh, repressive methods and ordered a writer who had published a few double-edged lines to be burned alive. Nero (54–68) deported his critics and burned their books. Domitian (81–96) suppressed free speech. Because a historian made slighting references to him in his history Domitian had him put to death and his secretaries crucified; he ordered a slanderer thrown to the dogs in the arena and a dramatist was put to death for having reflected on him adversely. Juvenal was banished for writing protests against the moral laxity in the court of Domitian.

Under the empire Rome practised a policy of toleration toward all religions and religious opinions and there was no punishment for blasphemy. "If the gods are insulted," said Tiberius, "let them see to it themselves." But the Jews and Christians were an exception. While to pagans worship of the imperial person or image was a political act, like an oath of loyalty, to the Jews and Christians it was idolatry; and so Roman toleration was not extended to them.

Christianity.—The persecution of Christians ended when, in 313, the emperor Constantine issued the Edict of Milan, which decreed toleration of Christianity and its legal equality with paganism. Constantine, following the edict, persecuted disobedience and instituted orthodox conformity. In 380 the emperor Theodosius I was baptized and he made Christianity the established state religion. Theodosius defined orthodox Christianity and made Christian heresy a crime against the state. Then the church and the Roman government began to persecute pagan and Christian heretics. In 445 an edict of Theodosius II declared that the pope would be the final authority in church government and that the state would use force to compel obedience to the decisions of the pope. These edicts set the pattern for the maintenance of Christian orthodoxy and the persecution of heresy for well over 1,000 years. It was believed that the safety of society was dependent upon Christian unity and that Christians had the duty not only to maintain the purity of the faith themselves but also to seek out and exterminate heretics.

The theory of the church was that it had the right and the duty to prohibit books that were opposed to faith or morals, as defined by the church, or that in some other way endangered man's eternal salvation, and that the secular force had the duty to carry out the decisions of the clergy against heretics, heresy and immoral publications.

The first formal condemnation of a book was issued by the Council of Nicaea in 325 against a book by Arius, declared to be heretical. Eight years later Constantine ordered the burning of all books by Arius under pain of death. In 400 Theophilus, the patriarch of Alexandria, in council with other Egyptian bishops, condemned the books of Origen. This pattern was frequently followed. In 496 Pope Gelasius issued a decree at the Roman synod that contained a catalogue of books that had been condemned and prohibited. The church reached the peak of its power under Innocent III at the beginning of the 13th century; but at the same time fear of the spread of heretical opinions became more intense and the church began to systematize its efforts to exterminate heresy and heretics. In 1215 Innocent decreed that it was the duty of every Christian to seek out and "exterminate" heretics. In 1233 Gregory IX instituted the Inquisition and turned over to the Franciscan and Dominican orders the power to investigate, judge and sentence heretics. The secular authorities co-operated by punishing heretics as the foulest criminals, often burning them at the stake. In 1252 Innocent IV authorized the use of torture in heresy trials to elicit confessions.

With the invention of printing in the 15th century it was thought necessary to institute preventive censorship by examining manuscripts before publication and authorizing or prohibiting their publication. In 1487 a papal bull was promulgated ordering that no works were to be published without prior ecclesiastical permission and this was to be granted only after thorough examination of the manuscript. In 1521 the emperor Charles V issued an edict making it a civil offense to publish a book proscribed by the

church and providing for prior ecclesiastical censorship. In 1542 Paul III instituted the Universal Roman Inquisition or Congregation of the Holy Office, one of whose functions was the examination and condemnation of heretical and immoral books. The first Roman Index of prohibited books was published by the congregation in 1559. Five years later Pius IV published the Index of the Council of Trent (1564) which contained, in addition to a catalogue of forbidden books, ten general rules regulating the censorship, expurgation and reading of books. In 1571 Pius V formed the Congregation of the Index, which was entrusted with all functions relating to the censorship and prohibition of books; but the Holy Office continued to enjoy jurisdiction to examine and proscribe books. In 1753 Benedict XIV promulgated rules to be followed in the censorship and prohibition of books and these rules constitute the norm subsequently followed by the Congregation of the Index and the Holy Office. In 1897 Leo XIII issued new legislation without replacing that of Benedict XIV. Perhaps the most important provisions in the legislation of Leo XIII are the broad prohibition of books *ex professo* obscene and the requirement that all the faithful must submit for previous censorship books dealing with religion or morality. Benedict XV abolished the Congregation of the Index in 1917 and assigned its duties to the Holy Office. Editions of the *Index librorum prohibitorum* have been frequently published. Over 4,000 books were on the Index by mid-20th century.

Reformation.—The leaders of the Protestant Reformation in the 16th century—John Calvin, John Knox, Martin Luther, Huldreich Zwingli, Martin Bucer, Théodore de Bèze—claimed liberty of conscience for themselves but denied the same liberty to others. They did not believe in religious liberty or even toleration except as temporary expedients needed in a struggle for power. Like the Roman Catholic Church, the reformers placed heavy emphasis on obedience to authority and preservation of social order and on the indissoluble, intimate connection between a religious establishment (if a reformed church) and the state. They sought out and persecuted papists and heretics.

The same forces of persecution operated in England in that century. Henry VIII in 1531 compelled the English clergy to recognize him as head of the Church of England, displacing the pope. In 1534 parliament enacted the Act of Supremacy, which declared the king to be head of church and state and vested in him final authority over creed and church government as well as power to declare and punish heresies. He beheaded Thomas More and John Fisher in 1535 for their refusal to acknowledge his supreme power over religion and he persecuted William Tyndale and burned copies of his English translation of the New Testament—thus persecuting both papists and reformers. Under his successor Edward VI (1547–53) the Reformation was welcomed to England and Catholics were persecuted. Under Mary (1553–58), Anglicans and Protestant reformers were persecuted; non-Catholic preaching, teaching, worship and books were prohibited; and Thomas Cranmer, archbishop of Canterbury, and Hugh Latimer, bishop of Worcester, were burned at the stake as heretics. Under Elizabeth (1558–63) the kingdom reverted to Anglicanism and she persecuted both Catholics and Puritan reformers. Thus, whoever was in power sought to achieve conformity by coercion.

But the Reformation had in it the seed of liberty of conscience; for its origin was due, in part, to the assertion of the priority of conscience over authority. This in time inevitably led to claims of liberty against the reformers themselves. It became apparent that it was inconsistent to affirm both personal conscience and theocratic power, for the former involves liberty and pluralism, the latter compulsion and uniformity. But the libertarianism that was latent in Protestantism took a long time to make itself effective. It was aided by the development of the secular, national states, which had political and economic interests that at times made intolerance itself intolerable; and it was aided by the principle that every man had the right to read and study the Bible, for this meant that a diversity of interpretations would necessarily result, leading to a diversity of sects.

From Censorship to Liberty.—In 1531 Henry VIII established the first licensing system under secular authority with ecclesiastics as licensers. This system of controlling writers and publishers was continued in one way or another until 1695. The end of the 17th century and the beginning of the 18th mark the start of the modern period, in which emphasis shifted from censorship and persecution to toleration and liberty. Men at that time were beginning to share with Michel de Montaigne, their 16th-century forerunner, his hatred of cruelty and violence, and were thinking with him that "it is setting a high value on one's opinions to roast men on account of them." They also were beginning to respond to the influence of some of the Renaissance humanists, *e.g.*, Sébastien Castellio (*De Haereticis*, 1554). They also were influenced by Faustus Socinus, forerunner of modern Unitarianism, who in 1574 repudiated coercion in the interests of religion. John Robinson (*Justification of Separation from the Church*, 1610), William Chillingworth (*The Religion of Protestants a Safe Way to Salvation*, 1638) and Jeremy Taylor (*The Liberty of Prophesying*, 1647) wrote influential tracts advocating a measured toleration. In the American colonies Roger Williams demonstrated that in his Rhode Island settlement it was possible for Protestants and Catholics, and even Jews and atheists, to live together in peace (1644); and Lord Baltimore, a Catholic, established the mutual toleration of Catholics and Protestants in the colony of Maryland (1632). John Clarke and William Penn worked in the same libertarian spirit in the colonies, and in the next century they were followed by Thomas Paine, Benjamin Franklin, Thomas Jefferson, George Mason and James Madison.

The Toleration act of 1689, a statute granted by William and Mary, provided freedom of worship to nonconforming Presbyterians, Congregationalists, Baptists and Quakers; but it excluded Catholics and Unitarians. (Unitarians were not freed of all disabilities until 1813, Catholics until 1829, Jews until 1858 and atheists until 1888.)

Almost simultaneously with the promulgation of the Toleration act, John Locke's first *Letter Concerning Toleration* (1689) was published. This tract was the first systematic repudiation of the view that dominated ancient and medieval society; namely, that religion is a matter of supreme communal concern and belongs to a man's public or social life. Locke, on the contrary, argued that states are constituted for the maintenance and enhancement of only the secular interests of men and that they have nothing to do with religious beliefs and observances. Toleration should extend to nonconformists and even pagans; but Locke excepted Catholics and atheists. Apart from his exceptions, Locke's theory, marking off a private sphere on which the state may not trespass, remained firmly fixed in liberal thought as a support of freedom of speech, press and religion.

Another classic rationale of freedom from censorship was John Milton's *Areopagitica: a Speech for Liberty of Unlicensed Printing* (1644). To Milton the first freedom was "the liberty to know, to utter, and to argue freely according to conscience, . . ." Milton's arguments against censorship and for the maximum liberty of expression were less theoretical and doctrinaire than Locke's argument a half-century later, for Milton tried to show the social evil of censorship and the social utility of liberty. John Stuart Mill's essay *On Liberty* (1859) was written in the spirit of the *Areopagitica*, while much of American constitutional law relating to the first-amendment freedoms of religion, speech, press and assembly has developed in the spirit of the Lockean theory.

MODERN AND CONTEMPORARY WORLD

At the end of the 18th century the fruit of the libertarian thought of that and the preceding century, joined with propulsive material forces, was evidenced in the American Declaration of Independence (1776) and the American Revolution, in the French Revolution and Declaration of the Rights of Man and of the Citizen (1789) and in the adoption, in 1791, of the Bill of Rights to the United States constitution. The reverberations of these events were heard everywhere but some nations responded by intensifying their means of repression and becoming more autocratic, while other nations responded by adopting liberalizing attitudes and measures and becoming more democratic. England, the United States and France continued to exert libertarian influences.

The prime instance of suppression of liberties (following the end of Naziism in Germany and Fascism in Italy) occurred in the Union of Soviet Socialist Republics. Andrei Vishinsky wrote authoritatively in *The Law of the Soviet State* (Eng. trans. by Hugh W. Babb, 1948): "In our state, naturally, there can be no place for freedom of speech, press, and so on for the foes of socialism." But in this totalitarian country there was no freedom of speech and press even for the friends of socialism who wished to express some criticism or raise some questions. The test in a totalitarian country was not whether the publication was treasonable or seditious, but whether it tended to advance official ideology. Following Nikita Khrushchev's secret address on the crimes of Joseph Stalin (Feb. 24–25, 1956) there was some relaxation of the strict censorship over speech and press but the nature of a dictatorship made reliance on any relatively liberal policy hazardous.

After the first quarter of the 19th century prosecutions for blasphemy became rare in the U.S. and England. It became widely recognized that such prosecutions were more scandalous than were the publications. The public and governmental interest moved away from the blasphemous to the obscene, and the interest in the latter was sustained for over 150 years.

Obscene Literature.—As long as books were expensive and literacy was confined to a small minority there was little concern over obscene literature. But as public education and cheap books reached the masses, guardians of public morals made their appearance and stimulated governments to suppress obscene writings. (The Society for the Suppression of Vice was founded in England in 1802; Anthony Comstock founded the New York Society for the Suppression of Vice in 1873.) Following the end of licensing in Great Britain in 1695 efforts were made to persuade the courts that censorship could be achieved through the operations of the common law. In Curll's case (1728) prosecution for publication of an obscene libel was sustained under common law.

The modern law of obscene literature takes as its point of departure Lord Campbell's act (Obscene Publications act, 1857). In the Hicklin case (1868) Lord Chief Justice Alexander Cockburn held that the test for obscenity under the statute was "whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall." The test of literary morality was what a father could read aloud in his own home. While there were many successful prosecutions for outright pornography, the law was also invoked against works of literary merit and works with a social or moral purpose. In addition to prosecutions other sanctions were used: seizure of books by the post office, customs officials or police, and their destruction.

The law was subject to continuous attack, for it was widely felt that it often compelled authors to falsify social realities. The law was also attacked for reducing literary standards to the level of what was morally proper for the young. The application of the law by judges in specific cases was also attacked, for judges permitted prosecutions on the basis of isolated passages; and judges also refused to permit evidence of the author's intent or purpose or of his literary reputation, or testimony of recognized literary critics. The law was also attacked because the prosecutions were often directed against booksellers, who were indifferent to the fate of the attacked book.

In some respects these faults in the law or its use no longer obtain. Notable progress was made by Justice Wintringham Norton Stable in a case before him in Old Bailey (central criminal court, London) in *R.* v. *Warburg* (1954). In charging the jury Justice Stable laid down the Hicklin test of obscenity but made a sharp differentiation between "filth for filth's sake" and literature. The former type of publication has no message, no inspiration, no thought; it is just "filthy bawdy muck" and such publications are obscene libels. The latter type of publication is one in which the author has "an honest purpose and an honest thread of thought"; it should not be condemned because it deals with the realities of life, love and sex. He told the jury that sex is not dirty or a sin, and that the literary-moral-legal test ought not to be what is suitable for a 14-year-old schoolgirl to read. He also stated his belief that novels are not to be belittled, for they are valuable sources of knowledge about the way people act, feel and think. The jury brought in a verdict of acquittal.

In 1954 an undertaking was initiated in parliament to change Lord Campbell's act and the effort resulted in enactment of the Obscene Publications act (1959), the most important provisions of which are: (1) that a person shall not be convicted if publication was "in the interests of science, literature, art or learning"; (2) that the opinion of experts as to the literary, artistic, scientific or other merits of the publication may be admitted as evidence; (3) that the work is to be read as a whole; and (4) that authors and book publishers may speak in defense of the work though they have not been summoned in the case. In Nov. 1960 a jury in London found that D. H. Lawrence's *Lady Chatterley's Lover* was not obscene.

In the U.S. the Hicklin test was taken over by the courts and Lord Campbell's act was more or less duplicated by every state legislature. In the federal courts two acts of congress were relevant: an act regulating imports and an act concerning nonmailable matter. The latter, by far the more important one, was passed in 1873. It was the use of the former statute, however, that ushered in the more modern law of obscenity.

Until the law was changed by congress, customs officials prevented the entry of such classics as Rousseau's *Confessions,* Voltaire's *Candide* and Boccaccio's *Decameron.* In 1930 congress amended the Tariff act to authorize the secretary of the treasury to admit classics and books of recognized scientific or literary merit when imported for noncommercial purposes. In 1933 an attempt was made to keep out a copy of *Ulysses* by James Joyce. When the case came before Judge John M. Woolsey of the federal district court in New York city he held that the book was not legally obscene. In his opinion Judge Woolsey referred to the reputation of the book in the literary world and took into consideration the intent with which the book was written. The judge read the book in its entirety and not merely the passages singled out by officials. The use of "dirty words" in "a sincere and honest book" did not make the book "dirty." The book should be tested by its effect "on a person with average sex instincts," for the law is concerned only with "the normal person."

Several decisions of the U.S. supreme court had a liberalizing effect. In 1957 the court held that a state may not prohibit the sale of a book generally to the public because of its tendency to affect adversely the morals of youth. While holding that obscene publications are not subject to the first-amendment guaranty of freedom of the press, the court held that the standards for judging obscenity must be such as will "safeguard the protection of freedom of speech and press for material which does not treat sex in a manner appealing to prurient interests." Accordingly the court rejected the Hicklin test as unconstitutionally restrictive since it permitted judgment on the basis of the effect of isolated passages on the most susceptible persons. A book must be judged as a whole and only its effects on a normal person may be considered. When tested by these decisions many state statutes may be of doubtful constitutionality and earlier federal and state decisions that banned works may not serve as binding precedents.

The dramatic change in the law effected by court decisions can be seen in the treatment of *Lady Chatterley's Lover,* mentioned above. In 1928 the book was published in Italy. Through devious ways copies reached England and pirated editions appeared in the U.S. despite the vigilance of officials. In 1959, however, the book was published by a reputable publisher in New York city. The U.S. post office department banned the book from the mails but the federal courts set aside the ban, holding that the book did not fall within the category of "hard-core pornography."

Policing the Comics.—Throughout the English-speaking world there was concern over the problem of comic books, which achieved phenomenal circulation records in the mid-20th century. In 1911 the first publication devoted exclusively to comics appeared but it was not until the late 1930s that it became apparent that there was a lucrative market for the newsstand sales of this type of publication. By mid-20th century comic publications had become big business.

At the same time—following World War II—a rise in juvenile

delinquency was noted almost everywhere in the world and much of the blame was placed on the comics. Demands for their suppression or regulation were widespread and many states adopted statutes specifically regulating the publication, sale or distribution of comics. Since the constitutionality of the legislative approaches was uncertain, however, there was widespread reliance on informal actions. Local and state officials and citizen groups in communities acted on the basis of lists prepared by private agencies and endeavoured to persuade dealers to withdraw from sale comics on these lists. Frequently the police co-operated by turning over to dealers or distributors lists of objectionable publications. In several states the legislatures set up commissions to examine publications and advise prosecutions. In some instances the procedures led to black-listing paperback books and magazines as well as comics. When tested in the courts, informal official censorship activities were generally declared illegal. But such tests were seldom tried, for the distributor or vendor, though suffering economic injury, found it less burdensome to implement the censorship black list than to risk having himself placed on an economic or social black list.

Self-policing by comics publishers was undertaken. In 1948 the Association of Comics Magazine Publishers was formed and the members adopted a code banning "sexy, wanton comics," "sadistic torture" and other offensive material. In 1954 the Comics Magazine Association of America was formed. Its code prohibited torture, glorification of crime, salaciousness and other evil features, and insisted that the stories should show the triumph of virtue over vice. It was not possible to measure the success or failure of these self-regulation policies. But efforts to censor publications, especially magazines, comics and paperback books, have not abated, especially on the level of local police and local citizen-group action. There is similar legislation in the United Kingdom, *e.g.*, the Children and Young Persons (Harmful Publications) act of 1955.

Motion Pictures.—Prior restraint was directed more at motion pictures than at any other medium of expression. The first movie censorship measure was an ordinance of the city of Chicago adopted in 1907. In 1915 the U.S. supreme court held that motion pictures were not protected by the free-speech guaranty of the first amendment; they were, said the court, mere "spectacles."

Between 1922 and 1927 there was growing indignation over the unconventional conduct of some movie stars and over sensational films and there was a movement for strong controls. The motion-picture producers responded with a plan for self-regulation that resulted in the Motion Picture Association of America Production code. Compliance was universal until a number of films that were denied the seal of approval were exhibited successfully. In 1956 certain features of the code were relaxed to permit more latitude in dealing with drug addiction, race relations, childbirth and the use of certain swearwords.

Official censorship perhaps proved to be weaker than self-regulation. In 1952 the supreme court, overruling its earlier decision, held that films are protected by the free-speech guaranty of the constitution. Following this and subsequent decisions some state courts declared their state censorship laws unconstitutional. While at one time there were about 90 local censorship boards, their number was sharply reduced and the legal foundation of whatever remained of film censorship on the state or local level was badly shaken. The supreme court struck down censorship of films that are "sacrilegious," "immoral" or "prejudicial to the best interests of the people." In 1959 the court condemned as unconstitutional the ban on the film "Lady Chatterley's Lover." The broad grounds of the decisions would probably make subsequent punishment no less difficult than prior restraint had become.

In Great Britain censorship is achieved through the county licensing of motion-picture theatres; the licences are dependent upon condition that the licensee will exhibit only films that have the approval of the British Board of Film Censors (a private body founded in 1912 that enjoys no statutory foundation but is supported by the film trade). There is no written code; each film is judged on its merits. Some films receive an "X" certificate, which means that they may be shown only to adults. It was argued that this system of classification resulted in the approval of films for adults that otherwise might have been banned. One unforeseen result was the establishment of many small cinemas that specialize in foreign films devoted to sex and nudism. The British Board of Film Censors said that there was no ban on any subject, provided the subject was treated with sincerity and restraint.

The Stage.—In the United States censorship of the legitimate stage seldom was discussed in mid-20th century. There was no legal authority—as was the case with films—devoted specially to acting as guardian over the morals of stage productions. Theatres were licensed generally on an annual basis by local authorities and the apprehension that a licence might not be renewed served as a restraint. The general obscenity laws applied to the stage but prosecutions were extremely rare.

In London the lord chamberlain, senior officer of the royal household, became censor of plays by a law of 1843 that provided that the lord chamberlain may ban a play if he considers the ban necessary "for the preservation of good manners, decorum, or of the public peace. . ." The licensing rules provided that there must be no stage profanity or impropriety of language, no indecency of dress, dance or gesture, no offensive personalities or representations of living or dead persons, nor anything likely to produce a breach of the peace or a riot. Sacrilege was ground for a ban. About 1,100 plays were examined annually, of which about 1% were banned. In 1949 a bill in parliament to abolish play censorship failed. To avoid jurisdiction of the lord chamberlain, small theatres for members were formed, where private performances were presented.

By the 1950s about 250 plays had been banned by the lord chamberlain, including plays that were shown on the U.S. stage. Critics of the censorship system charged that it had a crippling effect on the stage as a cultural force and that it was an aristocratic relic that had no place in a democracy. Responding to the criticism, the lord chamberlain liberalized the rules and the leading private-membership theatre went out of existence because its sponsors felt that its purpose had been achieved.

Broadcasting.—In the United States radio and television stations operated on licences from the Federal Communications commission (FCC), which began its operations in 1934. The Communications act of 1934 expressly prohibited censorship or interference with free speech. There was, therefore, no direct broadcast censorship. However, a station's licence was reviewed every three years and, upon an application for renewal, the FCC reviewed the applicant's total performance; licences were granted as being in the public interest. Criteria for public interest or public service were not formalized. The FCC was given power, by an act of 1952, to suspend a licence for obscenity. In the quarter-century after 1934 only 12 station licences were revoked and only one licence was not renewed.

In 1939 the radiobroadcasting industry adopted a code dealing with program and advertising content and in 1952 an industry-wide code for television was adopted. Extensive monitoring was done by the broadcasting industry for program and advertising content. The television code of 1952, more detailed than the code for radio, emphasized the station's active responsibilities but neither code was directed toward morality as much as was the movie code. Newscasts were not generally subject to prebroadcast editing. Most editorial changes on programs involved references to sex.

In addition to self-policing, broadcasting was responsive to pressures from various groups. Concern was expressed over the degree of control of programs exercised by commercial sponsors, for there was evidence of many changes in content as a result of pressure from the sponsor or its advertising agency.

The disclosures in 1959–60 of widespread "fixing" of quiz shows and "payola" led to grand-jury and legislative investigations in the U.S. A congressional committee in 1960 concluded that self-regulation by the broadcasting industry had proved to be insufficient and that the FCC had been too passive as a guardian of the public interest. The committee called for stricter regulation; for statutory remedies, including possibly a ban on control of programs by advertisers; for closer checks by the FCC on the performance

of licensees; for the licensing of the networks; and for more competition among companies for licences. But the broadcasting industry, the FCC and the public generally were reluctant to resort to measures that might lead to censorship by government.

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Most of the problems mentioned do not exist in Great Britain. Broadcasting in sound and television is carried out by the British Broadcasting corporation (BBC) and, in television only, by the Independent Television authority. The BBC is not a government department, but a public corporation created by royal charter. It derives its legal powers from its licence and agreement with the postmaster general but, subject to the requirements of its charter, it enjoys complete independence in the day-to-day operations of broadcasting, including programs and administration. The BBC may not derive any revenue from advertising in programs.

Censorship as such does not exist in independent television in Great Britain. Many of the problems experienced in the United States do not arise, because the nature of British independent television is radically different from that of U.S. commercial television. The Independent Television authority was established by the Television act, 1954, to provide broadcasting services, but it does not itself produce any programs. Contractors appointed under the act are responsible for this, and they sell advertising time just as a newspaper sells space. The advertiser has no control whatever over the programs. The Television act lays down broad principles of program standards, concerned with over-all balance, good taste and political impartiality. It is the duty of the authority to ensure that programs provided for it by the contractors fulfill these standards. (X.)

School Textbooks.—Some states in the United States have textbook commissions that select textbooks for the public schools; in some states the selection was made by committees of the local school boards; in some communities the selection was left to the school staff or individual teachers. State commissions and local textbook committees sometimes were subjected to pressures from business, political, religious, racial and other groups. Before the American Civil War textbooks were screened to favour or to oppose sectional interests. In the 1920s they were fought over because of questions of evolution and pro- or anti-British attitudes. Textbooks were often changed in response to pressures and changes in the textbooks were made by authors and publishers to accommodate the wishes of groups. After World War II the targets were statements that might be interpreted as favourable to Russia, Communism, Marxism or Socialism, and textbook authors who had been affiliated with suspect organizations.

Libraries.—In 1953 President Eisenhower spoke out against book burning. He spoke at a time when public libraries were targets of groups who sought the removal or destruction of books that they considered "un-American." One proposal urged by a pressure group was that books that they considered pro-Communist should be labeled as such and placed in special sections. Libraries were also charged with refusing to buy conservative or anti-Communist books and with favouring books that were "soft" on Communism.

The American Library association, the American Book Publishers Council, Inc., and other groups fought these efforts at library censorship. In 1948 the "American Library Bill of Rights" was published by the American Library association, stressing the need to resist "all abridgement of the free access to ideas and full freedom of expression. . ." In 1951 the same group opposed book labeling as an attempt to prejudice the reader and as a censor's tool. In 1953 these organizations released their statement on "The Freedom to Read," in which they cautioned against private groups and public authorities who sought to remove, censor or label books. They affirmed their duty "to make available the widest diversity of views and expressions, including those which are unorthodox or unpopular with the majority."

Freedom of Information.—In *Near* v. *Minnesota* (1931), in holding that previous restraint on newspapers was unconstitutional, the U.S. supreme court said that exceptional circumstances may justify such restraint—*e.g.*, in wartime a prohibition on publication of sailing dates of transports or the number and location of troops. But, in fact, government censorship extends far beyond these obvious instances. Wartime restraints were retained long after the need for them passed; and the restraints served to stifle political, economic and social expression. Much information was kept from the public; government agencies kept information from other government agencies. Newspapers in particular claimed that a climate of official secrecy had been developed that kept information from the public; as a consequence, from 1949 newspaper editors systematically promoted public understanding of the need for "freedom of information"; and committees of congress conducted extensive investigations. A report for the American Civil Liberties union made in 1955 stated that the situation had become aggravated and cited many examples of information officially withheld that had no relation to national security. These secrecy practices curtailed the power of the press and of congress, it was argued. A congressional committee report in 1958 pointed out that "science and secrecy have collided head on in the United States. Thus far, secrecy has dominated." The report stated: "There should be no attempts to hide discoveries of the basic laws of nature made in the past, present, or future." Another congressional committee report made in 1958 concluded: "Federal officials appear addicted to the doctrine that they alone can decide what is best for the people to know about their own Government. This dangerous attitude has reached the point where Federal officials are boldly proclaiming that they will decide what even the Congress shall and shall not know about the operations of Federal departments and agencies."

As a result of the numerous investigations and reports congress in 1958 passed a law to change the law of 1789 on which many government officials based their policy to withhold information. The 1789 act was designed to help President Washington set up his cabinet departments and give their heads authority in their organization and management, and provided that a department head should control the custody, use and preservation of records, papers and property. In the 1958 amendment of that law congress provided that the earlier law "does not authorize withholding information from the public or limiting the availability of records to the public." After passage of this act it was pointed out, however, that 80 statutes authorizing secrecy remained on the books. The 1946 Administrative Procedure act vested wide powers in government officials to withhold information and this act was not changed by the 1958 statute.

The same problem of secrecy often was noted on state and local levels. A special problem was the public agency that refused to make its meetings open to the press and public. In some states newspaper editors organized to win support for open-meeting legislation.

There was no direct censorship in Great Britain and in other countries where the tradition of press freedom is strong but the governments of these countries probably imposed restrictions on news sources; since the restrictions had not been the subject of legislative investigations, however, little was known about them. In Great Britain a voluntary Press council was set up in 1953 to safeguard high standards of journalism and the free flow of news. The clearest restraints in Great Britain are exercised on the reporting of court cases while they are pending and, through the Official Secrets acts of 1911 and 1920, on the dissemination of information obtained in the course of their work by persons in confidential government employment. Elsewhere, as in the U.S.S.R., the nations of the Communist bloc, Spain, Portugal, Turkey, Egypt and other countries, there was either strict censorship or strict laws that amounted to indirect controls over the press, including foreign correspondents.

Freedom of information is a problem with which the United Nations showed continuous concern. In 1955 the Economic and Social council urged all member states to cease the practice of censoring outgoing news dispatches in peacetime in order to provide a free flow of information throughout the world and to facilitate the unrestricted transmission of news by telecommunication services.

Birth-Control Literature.—In 1873 the U.S. congress banned

the use of the mails to birth-control literature. Several states followed with similar statutory bans and in 1890 the Tariff act forbade the importation of such literature. While the laws on this subject have changed very little, in practice such literature is generally unmolested. Judge Woolsey in 1931 ordered the admission of books on this subject as imports from England; in mid-20th century periodical literature and books dealing with techniques of birth control passed through customs and the mails and were openly sold everywhere, even in Connecticut and Massachusetts, states that had gone furthest in efforts to keep information on the subject from readers. In 1959 test cases the Connecticut courts upheld the ban on physicians' giving advice on birth control to patients and the case went up to the United States supreme court which in 1961 declined to rule on the law's constitutionality.

Postal Censorship.—The first postal law on obscenity in the U.S. was enacted in 1865 but the basic law was the so-called Comstock act of 1873. Basically it was a prohibition against sending obscene matter through the mail and it declared it to be a felony to import obscene matter, to deposit such matter in the mails and to transport such matter in interstate or foreign commerce for sale or distribution. Congress provided that matter deposited in the postal system for transmission should be divided into four classes, and that mail of the second, third and fourth classes shall be wrapped in such a manner as to facilitate the examination of its contents. The government may not open sealed letters or mail sent first class. Printed matter sent other than first class is not entitled to the protection of the fourth amendment against unreasonable search and seizure. Newspapers and magazines are sent by second-class mail, which is relatively inexpensive and its use is, therefore, referred to as a privilege. In the important *Esquire* case (1946) the supreme court held that the post office may not cancel the second-class mailing privilege of a periodical because the magazine was not considered to be for the "public good" while concededly not obscene. The court rejected the argument that the use of the mails is a privilege which the government may regulate at will; it cast doubt on the power to revoke mailing privileges affecting future publication on the ground of the past publication of obscenity.

In 1951, in compliance with the Administrative Procedure act, the post office set up hearing procedures for "nonmailability" cases. An adverse decision may be appealed to the courts (as was done in the case of *Lady Chatterley's Lover* in 1959–60). A publisher against whom a decision had been rendered might ship by private express but this was normally prohibitively expensive. It should be noted, however, that there were about 35,000 postmasters, not many of whom undertook to examine books offered for mailing, and book rulings made in Washington, D.C., were not circularized locally.

There was, however, the "hard-core" type of pornography that presented heavy problems for the authorities. A 1959 congressional committee report spoke of this as "big business." In 1958 the post office received complaints from 50,000 persons, mainly indignant parents, and in fiscal 1959 there were more than 70,000 complaints.

Propaganda from abroad falls within the jurisdiction of the customs bureau, but this agency worked closely with the post office. The 1938 Foreign Agents Registration act required registration of foreign principals engaged in the United States in the dissemination of "political propaganda." In 1939–40 it became apparent that much Nazi propaganda was being sent to the U.S., though there were no disclosed resident "foreign principals." The propaganda was seized by the post office and destroyed. After the start of the Korean war in 1950 a similar problem developed with respect to Communist propaganda. But much of this material was addressed to libraries, scholars and journalists, who claimed the right to receive the publications. The department also held up pacifist and other publications. After considering objections to its actions the post office modified its rules to exempt from screening all materials not coming from behind the "iron curtain."

The handling of foreign propaganda, as well as of "hard-core" pornography, were problems that had vexed the authorities—as well as congress, the courts and citizens generally—for many years; they presented difficult questions of constitutional law, public policy, public administration, administration of the criminal law and the freedom to know.

See BILL OF RIGHTS, UNITED STATES; BILL OF RIGHTS, ENGLISH; CIVIL LIBERTIES; NEWSPAPER; *see also* references under "Censorship" in the Index volume.

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CENSUS, an enumeration of people, houses, firms or other important items in a country or region at a particular time. Used alone, the term usually refers to a population census—the type to be described in this article. However, many countries, including the United States, take censuses of housing, manufacturing and agriculture.

Since it relates to a particular moment of time, a census differs from registration statistics. A census corresponds to an inventory in business, whereas registration statistics (called vital statistics when they refer to human events) correspond to the daily record of sales, purchases and other transactions. To a certain extent, census and registration statistics can be substituted for each other. For instance, by enumerating women by age, duration of marriage and number of children ever born, a census provides information on natality (birth rate) in a population even when the record of births and marriages is inadequate. Normally, however, both census enumeration and continuous registration are used to obtain a knowledge of population dynamics. For example, birth and death rates are calculated by dividing the number of births and deaths registered during a certain period by the average population living during that period.

Censuses, being expensive, are taken only at infrequent intervals: every ten years in many countries, every five years or at irregular intervals in other countries. In noncensus years the population is estimated with the aid of vital statistics if these are sufficiently satisfactory. For instance, the population in postcensal year X equals the population at the last census plus the births, minus the deaths, plus or minus the net migration during the intervening years.

History.—Strictly speaking, the modern population census began to evolve only in the 17th century. Before that time, inventories of people, taxpayers or valuables were certainly made, but the methods and purposes of such inventories were different from modern ones. The most important difference was that early inventories were made to control particular individuals; *e.g.*, to identify who should be taxed, inducted into military service or