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PUBLIC HEARING

Before

JOINT LEGISLATIVE COMMISSION CREATED BY ASSEMBLY
CONCURRENT RESOLUTION NO. 15 (1960) AND RECONSTITUTED
UNDER ASSEMBLY CONCURRENT RESOLUTION NO. 2 (1961) TO
STUDY THE SUBJECT OF OBSCENITY IN PUBLICATIONS.

Held:
Assembly Chamber
State House
Trenton, New Jersey
October 17, 1961

Members of Commission Present:

Assemblywoman Mildred Barry Hughes (Chairman)

Assemblywoman Beatrice M. Stiles

Senator Thomas F. Connery, Jr.

Also present:

J. G. Deardorff, Jr.
Secretary to the Commission

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ASSEMBLYWOMAN MILDRED BARRY HUGHES (Chairman): Ladies and gentlemen, as Chairman of the Commission I declare this public hearing open.

This Commission is a group set up by legislative action of both Houses of the New Jersey Legislature. We are empowered to bring to the Legislature suggestions and legislative action, if necessary, after we have heard all of the people that are concerned with this matter.

This is a public hearing today when we ask you to record your views. We do not have a specific bill as yet. We have been hearing private groups. But now we feel it is time to bring this whole matter into the open.

The Commission is comprised of three Senators and three Assembly people. Present here today are Senator Thomas Connery to my right from Gloucester County; Assemblywoman Beatrice Stiles from Essex County, and I am Assemblywoman Mildred Barry Hughes of Union County. Mr. J. G. Deardorff on my left is secretary of the Commission and a legislative consultant. If any other members of the Commission arrive, I shall introduce them to you.

We ask that you, when you testify, come forward and sit in this first chair right here and speak into the microphone so that your words may be recorded and so that everyone in the room may hear you.

We have also had a request that you give your name quite clearly and the group which you represent before you testify.

There are no questions which come to us; we will ask

you the questions. That is the procedure at a public hearing. If any of you do have questions which you would like us to ask someone, please write it and bring it up to the desk and then one of us will ask the person testifying.

Since we do not have a specific bill, there are no proponents or opponents. We will take you in the order in which you have registered unless you have requested specific time.

Judge Rafferty, would you testify, please.

J O H N J. R A F F E R T Y: Madam Chairman and members of the Commission: At one of your earlier hearings I suggested that I would be glad to draft a proposed legislative bill which might be of some assistance to you. You flattered me very much by suggesting that you would be glad to have such a proposal. I have to present to you this morning this proposal. I shall read the bill completely so that it may appear in the record, but before doing that I shall outline the general arrangement of the bill.

In Paragraph 1, I set out what is entitled "Legislative findings." Now, my study of the case law in our state courts and in our United States Supreme Court indicates that it is important to the consideration of the court to have an expression by a state legislature, particularly with regard to the impact of social problems upon the people generally. So, therefore, I have a paragraph entitled "Legislative findings" as the first step in the bill.

Next, I would define the word "obscene" and this definition, which is destined, I am sure, to become classical, is taken directly out of the opinion of Mr. Justice Brennan in

the United States Supreme Court in the Roth Case.

Next, I would provide that the Chief executive officer of a municipality may make a complaint in the Superior Court of our state against any person alleged to be selling, distributing or having in his possession for this purpose any obscene material, and that the Supreme Court, upon such a complaint being made and served upon the person charged, could at once issue an injunction against the further sale or distribution of this material until such time as the court shall have had opportunity to examine the matter and to determine whether within the definition the material is obscene. If the court finds the material is obscene, it may issue a permanent injunction against the sale, possession or distribution of this obscene material and it may further order that any such material in the possession of the person so found guilty shall be at ~~once~~ delivered to the sheriff of the county and to be destroyed by him.

Next, in order to recognize the importance of the matter to the dealer, to one who may be innocent, we provide for a very speedy hearing in the matter. As soon as issue is joined between the complaining party and the person alleged to have this material for sale or distribution, there must be a trial one day after the joinder of the issue and the court must render its judgment not later than two days after the completion of the hearing.

Now, in examining the Roth Case in the United States Supreme Court and the Kingsley Book Case, which was decided only the day after Roth, the matter which I have just referred to is approved by the United States Supreme Court, especially in the

Kingsley Book Case. It was a test of a similar statute from the State of New York and the court held that the statute was a valid enactment and approved it.

Now the only change that I have made in this paragraph from the New York law is that I have adjusted the language to fit our New Jersey procedures rather than the New York procedures. Otherwise there is no difference in substance. There is only that difference in arranging the language.

In the Kingsley Book Case, the decision was five to four, a very narrow decision. The New York statute did not provide for jury trial and the majority opinion in the Kingsley Book Case noted this, but said that the defendant had not raised the point - they had not discussed it nor had they made it a matter in issue. So, therefore, they would not pass upon it. Four dissenting judges in the United States Supreme Court all referred to the lack of provision for jury trial. It might well be inferred that if that case had been attacked by the publisher on the ground that it did not provide a jury trial, the result in the Supreme Court would have been the opposite to that which occurred.

So, therefore, in order to avoid that pitfall - and indeed as a matter of simple justice - my proposal would provide that should trial by jury be demanded as of right, the judgment of the court will follow the jury verdict.

The remaining paragraphs are very short and they provide only that, one, the chief executive officer of the municipality will not be obliged to file any bond or other undertaking when he applies for the injunction. Normally, if you seek to enjoin

a person from doing something, the court must know that if you have mistaken your remedy or if you have made an accusation that cannot be supported, the person against whom the charge is made may be reimbursed for his costs and other proper expenses.

In this bill we would provide that the chief executive officer making the complaint would not be obliged to file any bond or other undertaking of any kind whatsoever **and**, should it happen that the party against whom the charge is made is innocent, that the chief executive officer of the municipality shall not be liable in damages for having brought this suit. This is supported by the reasoning that a municipal officer or indeed any state officer or any public officer in the prosecution of his public duties should not be liable in damages for any mistake that he may have made. If it were not so, then indeed our prosecutors and our mayors and our police would hesitate to invoke the law at any time because being human beings and subject to the frailties of all of us, they might readily make a mistake. So, therefore, this merely carries on the traditional protection to public officers.

Now, the next to the last paragraph would provide that when the original complaint is made and the injunction issued prior to trial of the matter, if the person charged with the sale or distribution of this material continues to sell or distribute the material while the case is pending and if it should be determined that he was guilty of violation of the acts eventually, then his actions between the original complaint and the time of the judgment would also charge him with knowledge that the material was obscene.

Lastly, I expressly provide that the criminal statutes under Title 2A, particularly Chapter 115, shall continue, that the passage of this act, assuming that it shall be passed, shall not be considered to be a repealer of those criminal statutes by implication. So, therefore, to avoid such a possible result, I would expressly put in this bill a statement that the bill is supplemental of the existing remedies under Title 2A. That in substance is the bill and for the record I shall read it.

MRS. HUGHES: Excuse me, Judge Rafferty, before you read it, would you give your full name and the group you represent, please.

JUDGE RAFFERTY: I shall be happy to. I am sorry I omitted that. I must say, my dear Madam Chairman, I am here so often that I suppose everybody knows me, but the record doesn't know me.

My name is John J. Rafferty. I am an attorney at law with offices at 55 Paterson Street, New Brunswick, New Jersey. I am Executive Secretary of the New Jersey Catholic Conference and it is in this capacity that I appear today.

The New Jersey Catholic Conference is made up of the Catholic Bishops of the state who have invited a group of laymen, of whom I am one, to aid them in study and discussion of various matters that occur from time to time which have impact not only upon the church, but upon society generally, and that is my function here today.

Now, the text of the proposed bill is as follows:

(Reading) Title - An Act relating to obscenity,

defining the word "obscene" and providing for the issuance of judgment of injunction in the Superior Court to prevent the acquisition, possession or sale of obscene materials, and supplementing Title 2A of the Revised Statutes.

BE IT ENACTED BY THE SENATE AND GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY:

1. Legislative findings. It is hereby declared that the publication, sale and distribution to minors of comic books devoted to crime, sex, horror, terror, brutality and violence and of "pocket books," photographs, pamphlets, magazines and pornographic films devoted to the presentation and exploitation of illicit sex, lust, passion, depravity, violence, brutality, nudity, immorality and other obscene materials are a contributing factor to juvenile crime, a basic factor in impairing the ethical and moral development of our youth and constitute a clear and present danger to the people of the state. Therefore, the provisions, hereinafter prescribed, are enacted and their necessity in the public interest is hereby declared as a matter of legislative determination.

2. The word "obscene" where it appears in this Act shall mean that which to the average person, applying contemporary community standards, when considered as a whole has as its dominant theme or purpose an appeal to prurient interest.

3. The chief executive officer or the person who pro tem is acting as such chief executive officer of any municipality in this state, in which a person, firm or corporation sells or distributes or is about to sell or distribute or has in his possession with intent to sell or distribute or is about to acquire

possession with intent to sell or distribute any book, magazine, pamphlet, comic book, story paper, writing, paper, picture drawing, photograph, figure, image or any written or printed matter of an indecent character, which is obscene, lewd, lascivious, filthy or indecent or which contains an article or instrument of indecent or immoral use or purports to be for indecent or immoral use or purpose, may maintain an action for a judgment of injunction against such person, firm or corporation in the Superior Court to prevent the sale or further sale or the distribution or further distribution or the acquisition or possession^{with intent to sell or distribute} of any book, magazine, pamphlet, comic book, story paper, writing, paper, picture, drawing, photograph, figure or image or any written or printed matter of an indecent character, herein described.

4. The person, firm or corporation sought to be enjoined shall be entitled to a trial of the issue within one day after joinder of issue and a judgment shall be rendered by the court within ^{as promptly as possible} two days of the conclusion of the trial. Should trial by jury be demanded, as of right, the judgment of the court shall follow jury verdict.

5. In the event that a final judgment of injunction be entered in favor of such municipal officer and against the person, firm or corporation sought to be enjoined, such final judgment shall contain a provision directing the person, firm or corporation to surrender to the sheriff of the county in which the action was brought any of the matter described in paragraph three hereof and such sheriff shall be directed to seize and destroy the same.

6. In any action brought as herein provided such

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signature?
municipal officer shall not be required to file any undertaking
before the issuance of a judgment of injunction provided for in
paragraph four hereof, ^{and} shall not be liable for costs ~~and shall~~
~~not be liable for damages sustained by reason of the action for~~
~~judgment of injunction~~ in cases where judgment is rendered in
favor of the person, firm or corporation sought to be enjoined.

7. Every person, firm or corporation who sells,
distributes, or acquires possession with intent to sell or
distribute any of the matter described in paragraph three hereof,
after the service upon him of a summons and complaint in an action
brought by such municipal officer pursuant to this Act is charge-
able with knowledge of the contents thereof.

8. The provisions hereof are supplemental to other
remedies set forth in Title 2A of the Revised Statutes.

(Ends reading.)

This is the bill which I respectfully offer to the
Commission for its consideration and for whatever action the
Commission may feel it deserves.

MRS. HUGHES: Thank you, Judge Rafferty; we appreciate
your very, very expert testimony today and the contribution you
are making to our study because we realize what has gone into
the formation of this bill.

Do any of the members wish to question Judge Rafferty?
Senator Connery.

SENATOR CONNERY: The Judge and I are not exactly
strangers. We have met here before in other similar meetings
and I certainly am aware ---

JUDGE RAFFERTY: May I say, Mr. Connery, we met other

places.

SENATOR CONNERY: That is correct, Judge, in court, - that is quite true - as trial lawyers. And I would like to say to you, Judge, that I too am very much impressed by what you have had to say here today.

I would, however, be somewhat interested in your thoughts with respect to any change in our existing law, that is, change with respect to the terminology or the phraseology of R.S. 2A:115-2, and as you have pointed out in your review of that section, you refer to the use of the words "obscene" and "indecent" book, publication, etc. Do you feel that that section in itself needs any strengthening because as I take it your bill is generally directed toward the sale or distribution to minors, is that correct?

JUDGE RAFFERTY: That's correct.

SENATOR CONNERY: Well, do you feel that any change should be made in 2A:115-2, that particular section?

JUDGE RAFFERTY: I have considered that, Mr. Connery, and my conclusion is that, should this bill be adopted, we have a declaration or a definition of the word "obscene." It would then be in pari materia with the criminal statutes and would be an aid in the construction of the criminal statutes.

SENATOR CONNERY: So that the definition of the word "obscene" as contained in your bill, you feel would apply to the use of the word "obscene" in the existing law?

JUDGE RAFFERTY: Yes. I have come to that conclusion and I base the conclusion upon the familiar basic rule of that which is in pari materia with other statutes will be considered

in the construction of a given statute.

SENATOR CONNERY: Judge, you have been and have served, I should say really, on the highest court of appeals here in the State of New Jersey. Do you feel that the courts themselves - I won't say are delinquent - but have been somewhat soft in their application to existing or particular facts and circumstances in a certain case in applying the existing law and the tools that we now have on the books for the prosecution of persons who retail and purvey this kind of literature and publications that we are talking about?

JUDGE RAFFERTY: Well, preliminarily and may I add hastily by way of jest, I am not going to say the courts are soft because I still appear before judges and recognizing judges out of my own experience as being quite human and also very often quite fallible, I would hesitate to pass a judgment on that. I can only say that in my experience I think perhaps some of the judges who have had the duty to apply these criminal statutes have dealt subjectively with the statute. In other words, if their background was such that they regarded this as being unimportant, they would lean in favor of the person charged.

Now, for instance, in the Kingsley Book Case, there was a word that I chewed on for quite a while in the majority opinion. I just didn't like it. But upon reflection I recognized the judge had in mind something very definite. He used the word "deodand." Now "deodand" is something that anciently was supposed to have done harm to a person and therefore it would be offered up to the gods and destroyed. And in this very New York statute which I took here, the justice who wrote the majority opinion

referred to it as a deodand, but nevertheless he sustained it.

I think, Mr. Connery, judges approach matters with the background of their lives. For instance, I may say that in my experience I knew a judge during prohibition time who was always very lenient with those charged with violating the prohibition laws for the very simple and basic reason that he just didn't believe in the prohibition laws. And if I may make that analogy, I'll let that rest as an answer to your question.

SENATOR CONNERY: Thank you, Judge. There is just one further question: Isn't it true that either the Supreme Court of the United States or another appellate court has declared the policy that the retailer is not responsible for the contents of the publication that appears between the cover?

JUDGE RAFFERTY: That has appeared in many decisions, but, of course, I disagree with that conclusion. It has not been found in the United States Supreme Court decisions to my knowledge.

But, of course, this proposal I make would charge them with knowledge.

SENATOR CONNERY: And just one further thing then, is it also true in your research that some of the appellate courts have declared that the word "indecent" is too broad or too vague to be clearly or precisely defined from the standpoint of criminal prosecution?

JUDGE RAFFERTY: That is true. That is absolutely true and it is for that reason that I did not attempt to define "indecent" and I think it would be very difficult to define. And I am brave enough to offer a definition of the word "obscene"

because I lifted it from the opinion of Justice Brennan in the Roth Case in the United States Supreme Court.

I have followed slavishly his definition as a lawyer has a right to follow such a definition.

SENATOR CONNERY: Thank you very much. I have great respect for the source too of your authority.

MRS. HUGHES: Thank you very much, Judge.

JUDGE RAFFERTY: Thank you and I am very happy to have been here and I hope if I may be of any further aid to the Commission, that you will call on me in such respect.

MRS. HUGHES: We certainly will.

JUDGE RAFFERTY: I shall leave the original copy with you and a copy for the young lady who is working so hard.

MRS. HUGHES: Thank you.

We have present in the Assembly Chamber today the speaker of the Assembly who has come down to testify, Le Roy D'Aloia.

A S S E M B L Y M A N L E R O Y J. D ' A L O I A :

Leroy J. D'Aloia, Speaker of the New Jersey Assembly.

At the outset, Madam Chairman, I say that I take great pride in the fact that this Committee in so far as the Assembly members of the Committee - there are three outstanding women on that Committee, yourself as chairman - you are doing yeoman's work - Mrs. Stiles and Miss Brown from Hudson County. I say that with all pardonable pride in deference to the Senate members of the Committee.

I was very much interested in Judge Rafferty's presentation, especially the question of the definition of what

is obscene. Of course, we all realize that what is obscene depends on the mores of the times. What is obscene today, some people may not consider obscene tomorrow.

I was very much impressed with that part of his presentation which talked about the public officer who making the complaint would be free from retaliation in the event of a suit. I would suggest, however, an amendment to the particular bill submitted by him. He mentions the chief executive officer of a municipality. I would suggest that the bill say "the chief executive officer of a municipality or law enforcement officer of a municipality or county."

The problem of smut and the dissemination of pornography has reached alarming proportions in so far as Essex County is concerned. Sporadic efforts to clean up the county have met with only partial success. This I believe is due to the manner in which the problem is attacked. Thus far we have had a series of official raids on the retail outlets which sell the material as our only official acts. This, in addition to some speeches by official personnel, is practically the only attention paid to the problem in Essex. I am speaking, mind you, of official acts. I know for a fact that Father Hayes' work has been outstanding as has that of other church groups. The parents and the County Decent Literature Committee have ~~also~~ done excellent work.

But what concerns me here is official action on the part of law enforcement agencies, as well as legislative action. I feel that much still has to be accomplished in this area.

In order to make myself clear, let me point out one example. We have raids on our smaller shopkeepers who sell this

smut material.

Some are venal, I admit, and know full well what they are doing. But the vast majority of our retailers in Essex County are law abiding fathers and mothers like the rest of us, some working sixteen and eighteen hours in a small store to make a living. Oftentimes they don't have a chance to look at what is being sent to the store. When they do, they object to the dirt and try to keep it hidden. But what happens? The distributor steps into the picture and says "Take this dirt or you won't get Life or Look or Readers Digest." These tie-in magazine sales are forbidden, but it goes on every day in the county.

Then again, there are some small people whose money is tied up by these distributors in advance deposits. There are many vicious ways of retaliation against these small merchants if they don't handle the smut.

The answer, I think, lies in two directions: One, we must have legislation to safeguard the rights of the small storeowner to refuse any material he doesn't want to carry without fear of reprisal. Two, we must protect him by outlawing tie-in sales in a more effective manner than we have been doing. Third, we must hit out at the printer and the publisher of this wholesale filth. Keep him out of our county and out of our whole state.

In the final analysis, the answers also lie with the home, with the parents, who have to organize themselves to keep a strict watch on the kind of garbage being sold. With the help of interested citizens' groups, we can accomplish a great deal in getting rid, once and for all, of this crime against our youth.

I think this is a matter for further legislative inquiry. I think we should explore every legal angle to halt this assault on our youth. I am sure we can find the means without impairing our traditional rights of free press and free speech.

Thank you very much for the privilege of allowing me to speak here this morning.

MRS. HUGHES: Mr. D'Aloia, do you feel then that the present statutes against tie-in sales in New Jersey are ineffective?

ASSEMBLYMAN D'ALOIA: I feel that they have been ineffective. They are being evaded. That's where the big trouble is. How are we going to stop this? Can we do it by legislation? Can we do it by more effective police work?

MRS. HUGHES: Do you feel that the proposed bill that was read here this morning would encourage the law enforcement officers to - well, let me see - I'm lost for the word --

ASSEMBLYMAN D'ALOIA: -- to proceed more efficiently and more actively against the purveyor?

MRS. HUGHES: Thank you. That's it.

ASSEMBLYMAN D'ALOIA: I would think so. You get the definition of obscenity and then you get the protection of the law enforcement officer who against it. Now, you notice in our county - Mrs. Stiles knows it - I think the sheriff made several raids on this and right away he was open to suits. I think that is very important.

MRS. HUGHES: Thank you.

SENATOR CONNERY: Just one question, Roy, if I may.

I would like your comment on the proposal of Judge Rafferty in his bill with respect to the rapid and swift movement by way of injunctive proceedings against retailers or other persons who are selling or distributing such publications. Now, you are a lawyer, I know, and I believe you were a magistrate in the City of Newark. So certainly you are familiar with the way the legal processes move. Do you believe that on the filing of a complaint by either the chief law enforcement officer, as you have suggested, or the chief executive officer could result within a period of two or three days a determination that injunctive proceedings should issue, bearing in mind, of course that through the summer months many times the courts generally are in recess - the judges are difficult to contact?

ASSEMBLYMAN D'ALOIA: I think it is going to be a little difficult. Of course, that's the big problem. We all know that justice delayed is no justice at all and the big problem, of course, is with our courts and with the amount of work they have to handle. I am not sure that I know exactly the answer to that, whether that can be accomplished or not, but I say this, "Let's try it."

SENATOR CONNERY: Thank you.

MRS. HUGHES: Thank you, Mr. D'Aloia.

Mrs. Haggerty.

M R S. J O H N A. H A G G E R T Y: Madam Chairman, members of the Commission, ladies and gentlemen: I am Mrs. John A. Haggerty, Vice President of the New Jersey Congress of Parents and Teachers. I appreciate the opportunity to appear before this Commission to read a statement on behalf of the New

Jersey Congress of Parents and Teachers.

The National Congress of Parents and Teachers voted at its 1959 convention to support the Postmaster General's plan for checking the flood of indecent literature going through the mails.

In support of this stand, the New Jersey Congress created an "Action Committee" whose duty it was to form action committees in each of the 21 counties and its 1400 local units.

The function of these county and local committees was to visit newsstands and talk with the proprietors where these publications were sold. Through this intensive campaign it was discovered that the "package deal," a combination of good and bad publications was being forced upon the newsdealer.

Much of the obscene literature was removed from the newsstands through the cooperation of the newsdealer with the action committee set up by the New Jersey Congress.

Members of the New Jersey Congress of Parents and Teachers are interested in the welfare of all children and youth in the community. Our interest and concern is to help make the communities of our State better places in which to raise the future of our country, our children.

Today every American citizen needs a clear and alert mind to meet every-day problems with which he is constantly faced.

We wish to help clean out the obscene literature so that decent literature may have a chance. We want to consistently build up the moral strength of our state and country. We most of all want the law on our side.

The New Jersey Congress of Parents and Teachers commends this Commission and recommends further study of the subject. Thank you very much.

MRS. HUGHES: Thank you, Mrs. Haggerty.

MR. DEARDORFF: What is your address, please.

MRS. HAGGERTY: I live in Trenton. I reside at 30 Danser Drive, Trenton, 10, New Jersey.

MRS. HUGHES: Before you leave, Mrs. Haggerty, do I understand that the committees that you have set up - the members of the committees rather - feel that when they approach the vendors, the vendors are not at fault, that is, they use this tie-in sale as a reason for accepting this material?

MRS. HAGGERTY: Well, not necessarily. I don't believe that the vendors realized that they had undesirable material until this was brought to their attention by these people visiting the newsstand.

MRS. HUGHES: In other words, the people who go in and check the material have been helping the vendors; is that correct?

MRS. HAGGERTY: They would bring to their attention the fact that this is the sort of thing they should not have on their stands and should not sell.

If I may state one experience of one of our local unit presidents while I was President of the Mercer County Council of the PTA - she happened to pass a drug store and saw material in the window which she certainly would not want her child to read or even to see the cover. She went in and spoke to the owner of the

store, brought this to his attention, and he apologized to her and said, "Certainly, I would be the last person to sell such material. I have children of my own," and thanked her for bringing it to his attention.

MRS. HUGHES: Then they have cooperated with your group?

MRS. HAGGERTY: Yes, they have.

MRS. HUGHES: Thank you.

MRS. HAGGERTY: Thank you.

MRS. HUGHES: We have a group who have come together and have requested to be heard early in the proceedings - Rt. Rev. Monsignor LeRoy McWilliams. Monsignor, will each member of your group speak or do you intend to speak for them?

MR. RUVOLDT: The Monsignor will make his presentation. Then if you will follow through -- of course, on the notice that we sent to the Commission you will find that we have Counsellor Francis McInerney to be heard and the Monsignor to speak and I just have a brief statement to make - and Mrs. Keegan. The Monsignor will speak first.

R T. R E V. M S G R. L E R O Y M C W I L L I A M S:

Ladies and gentlemen of the New Jersey Commission on Obscenity, my name is Monsignor McWilliams, pastor of St. Michael's Church in Jersey City, and I also represent the Legion of Decency in Hudson County. The remarks which I will make will be more general than specific because they will be pointed out by those who speak briefly after me.

There is a time for listening and a time for speaking and

we feel that the time has come to speak and that explains our presence here today.

It has been said that America will not be murdered by the Soviets, but it can commit suicide. Sixteen out of nineteen civilizations that have passed away died not so much from the battering of their enemies, but from a decay within.

Rome survived about a thousand years, Greece about five hundred years. We are about one hundred and eighty-five years old and unless the decline of faith and morality is checked, it is doubtful if we will last two hundred years more as a nation first class. Our hope should not be in politics or in arms, but in the God who made us.

It seems that as man conquers outer space, he seems to lose conquest of self. As he masters what is outside of him, he becomes enslaved inside. He knows how to control the universe, but he does not know how to control himself. Ours was a stronger nation eighty-five years ago with only 3,000,000 citizens than it is now with 170,000,000 with the great physical developments we have achieved.

History makes it plain that immorality leads to destruction. We need a gold standard in morals. The decay of the individual and national character is due in large measure to the pagan character of our movies and the lecherous and pornographic character of our literature and magazines. The motion picture is the great school of education today. It has more appeal in influencing young people than parents, church or school. It has an unsurpassed opportunity in rebuilding the bodies and

souls of human beings, but it has failed miserably to fulfill this great trust and responsibility. It gives us a dangerous education in sex, luxury, unrestraint and carousal. It produces a distortion of life, its occupations and preoccupations.

The code of decency universally adopted by the Association of Motion Picture Producers on March 31, 1930, has been honored more in the breach than in the observance and plans are now in the making to portray sexual perversion, and the time is not too far away when there will be no holes barred.

What happens on the screen is reinforced and aided and abetted by their partners in crime, bad books and especially atrocious magazines that are available at any newsstand today, and the youngsters are gobbling them up. The vendor has no qualms about debauching youth with this filth. He is like the procurer living off the bodies of women. To undermine the youth of today is to destroy the man of tomorrow.

Now, public safety demands that we establish quarantines against epidemics, enforce measures against sanitary conditions and guard our water supply lest contagion, infection and contamination harm the physical well-being of our people. To be consistent, we should be equally concerned about the moral tone of the nation.

A serious lowering of the moral standards of any community menaces the common good and weakens, if it does not destroy, the sanctions that guarantee peace and prosperity. God forbid that we become a race of physical giants and moral dwarfs. Thank you.

MRS. HUGHES: Thank you, Monsignor. Are there any questions? (No response.) No questions.

MR. RUVOLDT: Mrs. P. Sottilare, the Legislative Representative of the Women's Grand Jury Association, desires to be heard by this Commission and she will speak for Mrs. Arthur J. Keegan and Mrs. Terry Campbell, President and Legislative Representative, respectively, of the Women's Grand Jury Association of Hudson County. Mrs. P. Sottilare --- Mrs. Harriet Mitchell we have here today.

MRS. HUGHES: You have heard the request that the women who testify speak a little louder. Would you also give the names of the persons for whom you are speaking and their groups if you are going to represent more than one?

R O S E S O T T I L A R E: My name is Rose Sottilare, and the address is 73 Webster Avenue, Jersey City, and I represent the Woman's Grand Jury Association of Hudson County.

Madam Chairman, members of the Commission, ladies and gentlemen: The Woman's Grand Jury Association of Hudson County in its plan of action to preserve the highest standards of decency in its municipalities, vitally concerned as it is with the insidiousness of lewd obscene literature on our youth, has through its individual members, each of whom is affiliated with at least one of the social, service and welfare organizations of Hudson County, endeavored to alert the attention of members of the community, particularly parents, to the urgency of constantly being aware of objectionable literature sold at the local candy stores. In other words, education by word of mouth, has been

one method of attack in this campaign. Another, in this plan of action, is the withholding of patronage from offenders.

The Woman's Grand Jury Association, for many reasons, and particularly the important one of keeping the public constantly alerted, recommends that a permanent State Commission on Obscenity be established, that there be a paid investigator and funds allotted, an investigator who would be responsible for being familiar with this situation in all sections of the State, who would yearly present a report and recommendations, and who would serve to coordinate with such Federal Conference (consisting of Federal, State and local officials and members of public and private groups) to propose methods of, and coordinate action for combating the traffic of obscene matters and materials - such conference as is proposed in Congressman Frank C. Osmer, Jr.'s Bill H. J. Resolution 60.

The Woman's Grand Jury Association would also like to recommend that "teeth" be put into the existing and proposed statutes that will enable our law enforcement agencies to halt this million-dollar racket by getting at the "Mr. Big" behind it. The following legislation is proposed:

"Any person who sends, distributes, or delivers to a retail merchant a book, pamphlet, magazine, or other form of printed or written material which said merchant had not previously ordered in writing, specifying the title of such publication he desired, is a disorderly person on the first conviction."

Such a bill, as per copy attached, as concerns our youth, is a bill that would impose restrictions on the dissemination to individuals under eighteen years of age of publications which

are obscene for juveniles and provide a penalty for the violation thereof.

Thus, by aroused civic consciousness, by creation of a State Commission with a permanent investigator, coordination with a Federal Commission, such as proposed in Congressman Frank C. Osmer, Jr.'s bill, by strong support of Senator Clifford P. Case's bill to curb obscene and noxious matters, "this force," to quote Senator Mundt, "more evil, more destructive, more devastating to our community and to our national welfare than opium and alcohol in its relationship to juvenile delinquency," we believe, we can effectively control this widespread corruption of our youth.

The Woman's Grand Jury Association of Hudson County would like to commend the Commission for its tremendous effort. Thank you.

MRS. HUGHES: Thank you very much.

Is Mrs. Mitchell going to speak too?

MRS. SOTTILARE: No, I don't believe so. I spoke for Mrs. Keegan, who is our President.

MRS. HUGHES: Well, would you read that into the record then, please?

MRS. SOTTILARE: Yes. I have spoken for Mrs. Keegan, who is the President of the Woman's Grand Jury Association of Hudson County.

MRS. HUGHES: Thank you.

MR. RUVOLDT: I would like it noted that Mrs. Terry Campbell is here also.

We have Mr. Fred Fesczko of the Humble Oil Company (Standard Oil Company of New Jersey) who is the Laity Chairman of

the Hudson County Legion of Decency.

MRS. HUGHES: Mr. Ruvoldt, when you testify yourself, would you give us these names that you have given us from across the room because they are not recorded from where you are sitting.

F R E D F E S C Z K O: Mr. Chairman, Monsignor, Right Reverend Fathers, ladies and gentlemen: I believe that with the tension which has arisen in recent months in the fight on obscenity, and especially since the recent publication of the book "Tropic of Cancer," more effort should be made to alert the public, service organizations, publishers, distributors and storekeepers. I personally have made some contacts myself in Hudson County among such organizations and have realized some success in this endeavor.

Prosecutor Lawrence A. Whipple and Assistant Prosecutor Harold J. Ruvoldt of Hudson County are to be commended for the work in the fight against obscenity in Hudson County.

More effort, I say, should be made. In Hudson County, with Mr. Whipple and Mr. Ruvoldt behind it, Hudson County has nothing to fear in this matter. Thank you very much.

MRS. HUGHES: Would you give your name, please, and the group you represent. We didn't get that in the record.

MR. FESCZKO: My name is Fred Fesczko from Hudson County, Lay-Chairman of the Hudson County Legion of Decency.

MRS. HUGHES: Thank you.

H A R O L D J. R U V O L D T: Madam Chairlady and members of the Commission: We are very happy on behalf of Prosecutor Lawrence A. Whipple to accept your kind invitation to

be present this morning at this important hearing of your Commission.

At this time I would like to express on behalf of Prosecutor Whipple also gratitude for the appearance here this morning of Rt. Rev. Monsignor LeRoy McWilliams, Archdiocesan Director of the Hudson County Legion of Decency; Mr. Fred Fesczko, Laity Chairman of the Hudson County Legion of Decency, who is also of the Humble Oil Company (Standard Oil Company of New Jersey Division). I mention that for this particular reason. I think it is commendable that private industry would give to their employees the opportunity to come before this Commission on this important occasion. We also are very happy to have had the cooperation continually of the Woman's Grand Jury Association of Hudson County, headed by those who appeared here this morning: Mrs. Arthur J. Keegan, President; Mrs. Terry Campbell, Legislative Representation of the Woman's Grand Jury Association of Hudson County; as well as its past president Mrs. Harriet E. Mitchell; and the State Legislative Representative of the Woman's Grand Jury Association, Mrs. Sottolare. It is expected that Counselor Francis McInerney, President of the Newark Archdiocesan Federation of Holy Name Societies will be here. He is not here yet.

At this time, needless to say, Prosecutor Whipple has been cooperating with this Commission since its inauguration. As far back as February, on February 20, 1961, Prosecutor Whipple presented to this Commission a recommendation report in which there has been outlined certain recommendations that need legislative attention. It was the privilege of Lawrence A. Whipple to have me represent him at the executive session of

this Commission on June 23, 1961.

There isn't any question that the sociological effectiveness of obscene literature certainly has been well established by authorities. Certainly it creates a decadent condition in society corrupting the entire mental and physical development not only of our youth, but of our entire community.

So this Commission was formed, and I read the words, "for the purpose of making a study in connection with the problems of the publication of obscene literature." The purpose of this Commission was to recommend appropriate remedial legislation without in any way restraining or abridging the liberty of free speech and press.

The decision of the United States Supreme Court in Roth versus U. S. as well as the decision only recently of the New Jersey Supreme Court, decided June 30, 1961, State of New Jersey versus Hudson County News, and the State of New Jersey versus Medwin, certainly is indicative of the fact that when we enter into the field of obscene literature, and filthy publications certainly they do not have the right to have the cloak of respectability that is guaranteed by our United States Constitution or the Constitution of New Jersey because the court has ruled in its decisions that certainly while there is freedom of press, freedom of speech, there is by no means a freedom of immorality that would create a decadent condition.

It is with that purpose in mind that this Commission, I trust, has undertaken this study. And there has come the time now for action.

And may I this morning on behalf of Prosecutor Whipple

stress before this Commission to take into consideration the report as filed herein - full copy of it - and note the fact in particular in the report, the recommendation that has been discussed here this morning relative to the amendment of 2A:115-3.1 wherein it would be incumbent upon the distributor to receive a written order from the vendor before filling the vendor's rack with filthy literature that is an insult to decency in each and every community.

We cannot endeavor to whitewash vendors because we know that in our neighborhoods in our cities there are retail dealers who certainly are giving full cooperation. It is self evident that retail dealers cannot hide behind the fact that they do not know what is being sent to them because it is very evident that if they were sent candy that was naturally distasteful, that was objectionable, that was in any way bad for the children, of course, they would immediately refuse to put that in their candy shelves. Here we have filthy literature coming out in all forms and being pushed forward. So there must be and there should be and there can be by such an amendment as is proposed in Prosecutor Whipple's report a vigilance on the distributor, but also on the retail dealer because there must be cooperation all along the line and there isn't any question but that when we have laws that offer the arm of law enforcement, there comes about even greater cooperation between citizenry and law enforcement.

I believe you might take judicial note of the action and attitude following the decision of our Supreme Court in June 30, 1961, wherein the constitutionality of 2A:115-2 was upheld because then the distributor could no longer tell the retailer

that the law of New Jersey is unconstitutional and will be wiped out.

Now, certainly, the action of this Commission has brought about an alertness and the cooperation of the citizenry is most important. But this Commission is now faced with coming before the Legislature in order to bring out a clearer understanding of the law. All citizens are presumed to know the law. Ignorance of the law is no defense. It is, therefore, time now for this Commission to make recommendations in terms of common language and understanding that obscene literature and the word "obscenity" has been defined by the United States Supreme Court. Certainly in the decision of our own court there is ample proof and authority as to just exactly what constitutes obscenity. Obscenity is filth. Obscenity is disgusting. Obscenity certainly is objectionable to each and every mother, father and to every family and to all community life. Therefore, I say there is sufficient within the court ruling, within the proposed recommendations as contained in Prosecutor Whipple's report, within the recommendations as given here this morning - there is sufficient basis upon which this Commission can present to the Legislature of New Jersey in clear and concise language - to serve notice upon those who would peddle for pennies and dollars and millions of dollars the souls and the character of our youth and of our entire community - there is ample foundation for our Legislature to now come forward with a definite act that makes it clear and understandable that the cloak of freedom of the press will not be prostituted by trying to cover up indecency, by trying to cover up

sex perversion, by trying to cover up the contaminating of the minds of the people of our community.

I, therefore, respectfully submit and ask this Commission on behalf of Prosecutor Whipple to read and consider the recommendations given here and to give commendation to this Commission at this particular time, that already there has been an awareness in our communities because by the interest shown by this Commission, certainly we can see a public reaction, that the public wants something done.

I need not say anything further, but to bring attention to the action of the public generally when there appeared only within recent days a flood of the book "Tropic of Cancer" and immediately there was a public reaction because the people in every community want a decent community. They want the vendor to sell good books. We have the greatest authors in the world and certainly there is a wealth of material that can be sold to all of our people without contaminating the book shelves of our community with obscene and filthy literature. And I would say that there must not be taken the attitude of protection for those who would disregard the demand for community decency. It is now time for the Legislature, as the court has done, to serve notice to the peddlers of filth that filth will not be tolerated in New Jersey in any community.

I think with that goal in mind this Commission has entered upon its sacred duty and obligation and I extend to you the thanks of the people of the County of Hudson because certainly by their appearance here today, by the wonderful cooperation that

has been given to Prosecutor Whipple, it is evident that the people of Hudson County, like the people of every county, want a decent community in which to raise their children - to know and understand that they can be citizens of this community, of this state. And I think that New Jersey certainly has gained the respect of other states when we see that in a neighboring state a court has ruled that only hard-core pornography shall be deemed to be legally obscene.

I think it is a tribute to New Jersey already that certainly we have not degraded ourselves into the gutter of such a sociological acceptance of principle because in New Jersey our Legislature, you the members of this Commission, law enforcement, clergy and laity, are united in a demand for legislative action that the barriers against filth be made stronger in this great state.

I again commend you on behalf of our Prosecutor of Hudson County, Lawrence A. Whipple, and I ask that the report as already submitted to this Commission be made part of this hearing. Thank you very much.

MRS. HUGHES: Thank you, Mr. Ruvoldt. We certainly want to thank Prosecutor Whipple for his cooperation. I think at this time I should state that Assemblyman William Musto of Hudson County was the main sponsor of the bill which set up this Commission, but because of his duties he was not able to be a member of the Commission itself.

Is Mr. McInerney here now?

MR. RUVOLDT: Mr. McInerney has not arrived. He was,

I believe, trying to get excused from a case before Judge Artaserse.

MRS. HUGHES: Well, when he comes, will you inform us, please, and we will be glad to hear him.

MR. RUVOLDT: We wish to thank the Commission for giving us the opportunity to be heard so we can get back.

MRS. HUGHES: Any questions?

SENATOR CONNERY: There is just one question I would like to ask Mr. Ruvoldt. It is certainly obvious that you have made an exhaustive study of the decisions that have come down from our courts with respect to obscene publications and those things that we are talking about here this morning. In the course of your research have our courts or have some of the appellate courts declared in their opinions that if in these publications, books and so forth there is any semblance of art or literature or culture, that such publication of such book could not then be deemed to be obscene.

MR. RUVOLDT: Well, I would refer you to the Roth Case and I believe that Justice Brennan made it very clear there when he uses the words "dominant theme." If the dominant theme of the material taken as a whole, based upon the community standards, appeals to the prurient, which means lustful, exotic desires, then it is legalistically speaking obscene.

Now I refer you to the recent decision that I cited, State versus Hudson County News and State versus Medwin, decided June 30, 1961.- Even there our court refers to what I would term a definition of obscenity. It says there - it refers there to a quote from the American Law Institute - and it says there "A thing

is to be considered obscene if considered as a whole, the predominant appeal is to prurient interest, that is, shameful or morbid interest in nudity, sex or ~~excre~~ta tion, or if it goes substantially beyond customary limits of candor in description or representation of such matters."

Certainly, individually sitting, let's say, as a trier of the facts if presented from our own minds or from our own understanding, taking into consideration the fact that we do have a knowledge of our own community, the neighborhood in which we live - and I believe that certainly there are well qualified people, people who have lived in cities all their lives, such as the people you have heard here this morning, Monsignor McWilliams, certainly the representatives from the Woman's Grand Jury Association who have lived in Hudson County - now certainly from the examination of the material itself, if it would be concluded that the dominant theme does appeal to the prurient interest, then it would be obscene. Now, when you try to cover it with the cloak of being artistic, we know that certainly you must take the entire matter as a whole. Let me say here and now that there may be things and there are things that are morally objectionable, but not legally obscene. It would be wonderful if we could get to the point where everything morally objectionable would be legally obscene. But certainly we have sufficient in the definitions that we have of obscenity - we have sufficient upon which to base an action. And certainly the community is the protector of its own decency.

Might I say, without prolonging this, that, of course, decency like liberty has its price, which is eternal vigilance.

I might say up in Hudson County we felt that a great job was being done through the cooperation of laity, the clergy -- first, the clergy, then laity and law enforcement. Then all of a sudden comes along this book "Tropic of Cancer." Now immediately the public has been alerted. Immediately they start calling law enforcement and they want their community protected and I think we have sufficient in our court decisions upon which to protect the decency of our respective communities. It begins right at the corner store - of course, naturally the distributor, the fellow who peddles the stuff in the terminals and the bus stations. Of course, law enforcement catches up with them too. But by the same token I think that generally speaking we have sufficient upon which to base and to judge whether or not a publication really and truly is obscene. Certainly there are many magazines which come out and certainly you see even advertisements that might be objectionable morally. But by the same token you don't see any rise against it because of the fact that the dominant theme, of course, is not to the prurient or sex perverted interest.

I hope I have answered your question.

SENATOR CONNERY: You have. There is just one further question: Do you think the courts have been somewhat soft in their interpretation and application of the existing phraseology which we have in our current statutes?

MR. RUVOLDT: I firmly believe that the Federal principle has been certainly set forth in the Roth Case sufficiently well enough upon which prosecution may be initiated and I firmly believe that in the recent decision here in New Jersey by the upholding of the constitutionality of our present statute, there

is even sufficient in there upon which the complaint may be based. It becomes a question of the trier of the facts. The jury is the conscience of the community. And certainly that is only being fair in the exercise of our judicial administration as well as our criminal administration, that at least there is a prima facie case to start with and then it will become the duty and the obligation of the jury to make the final decision because they are the keepers of the conscience of their respective communities.

SENATOR CONNERY: Could that lead to a situation where a jury in Gloucester County might find that a certain publication was obscene whereas a jury in Essex County might find that it was not?

MR. RUVOLDT: We have to go back to the definition as enunciated by the court. It has to be based on the contemporary community standards. So if they permit it within their particular area - I mean, if the jury feels the book is not one of obscene legal character, then, of course, that would be the verdict because naturally in the administration of justice we have to certainly carry out to the ^{nth} degree the cardinal principle of justice itself. So if the allegation is that the publication is obscene, those who peddle it are brought for trial and the case is presented to the jury and the jury makes its decision, that may well be. But I think from practical experience, certainly the community standards - of course, like a disease it will catch on. I think if you have high community standards in Essex County, Hudson County, Gloucester County and throughout the state, I

doubt if any county would want to be put into the category of not being willing and ready to uphold the highest standards of decency for their respective community.

SENATOR CONNERY: Thank you.

MRS. HUGHES: Do you feel that the different communities have such various standards that we would have a group bootlegging this material from one county to another or do you feel that in the state the people themselves have more or less the same standards?

MR. RUVOLDT: Well, having been born and raised in sociable Hudson County which gets along with all counties, I would say - and it has been my privilege to be in every county in the State of New Jersey - that we have a great community bond throughout this state. This is a great state. And I think there is a great community interest and from my observation throughout the state, I certainly think that the state as a whole has the highest standards of decency and morality; and I think, guided by that, the future as to governing the standards of decency throughout our state, we can rest assured that the people will keep them high because we have great confidence in the people in our great State of New Jersey.

MRS. HUGHES: Thank you, Mr. Ruvoldt.

Mr. McInerney has come in. Will he appear? Then that will complete this part of the testimony.

MR. RUVOLDT: Mr. McInerney, will you come down here. Mr. Frank McInerney is President of the Archdiocesan Federation of Holy Name Societies of the Archdiocese of Newark.

F R A N K M C I N E R N E Y: Honorable members of the Commission, it is not my purpose to go into too much discussion about this particular matter. I think our Assistant County Prosecutor Harold Ruvoldt has well presented the thoughts that we in Hudson County have in regard to this particular law that is being contemplated by the New Jersey Legislature.

I think that I would like to talk about this from a little different angle and, that is, that the importance of this statute that is being contemplated to strengthen the statute that was enacted and passed some years ago is because we have these purveyors of filth whose main objective seems to be to try to weaken the structure of our youth in this country. The grownups if they so choose and they don't care for the type of filth **they are feeding** their minds - all we say to them is we sympathize. Many of these grownups unfortunately allow some of this smut which they buy from the newsstand to be placed in their homes and I don't think they seem to be on their guard as to whether or not the children in their homes read this filth.

Now I don't have to tell you members of this Commission that if you have something continuously before you, it is going to become a part of you. And this juvenile delinquency that all of the members of the Legislature and the police authorities and the prosecutors' offices and every good America have been worrying about becomes even a greater threat to the foundation of this wonderful country of ours. And we are feeding this by weakening the fibre and the morals of our youngsters. I think that is why we should be careful to see to it that when we do enact

a law, that we enact a law that has teeth in it and that will stand up when the appellate courts and other courts review it. That is why I think that this Honorable Commission will keep in mind the two outstanding decisions of the Supreme Court, namely, the Roth decision in which the definition was clearly set forth and, if you haven't had it presented to you before, I would like to read it to you members of this Commission. The main weakness that we have found in some of these particular laws is that there hasn't been a definition of what is filth and what is pernicious. As I say, I know you will keep in mind the definition as set forth. At this particular point may I deviate a minute to read from the Catholic News which emphasizes the definition.

MRS. HUGHES: Mr. McInerney, Judge Rafferty has already given us the definition.

MR. MC INERNEY: I feel that Judge Rafferty and Father Hayes have thoroughly and competently discussed this particular matter, and as I said at the beginning, what I am saying is just reiteration here.

He probably has emphasized the fact that the Supreme Court required knowledge on the part of the one possessing, and I think that Judge Rafferty has probably covered that particular point too and I am glad to hear that.

As I say, my appeal to the members of this Commission is to try to strengthen America by seeing to it that the youth of our country are being properly protected by a wonderful people and wonderful commissioners like you and by the Legislature of the State of New Jersey.

It is unfortunate that we have to have laws or we need

laws to try to counteract, I would say, this billion-dollar industry of filth preying upon my particular subject, the youth of our country. But we have it and if the Legislature and the courts and the other good commissions and groups in the State of New Jersey don't take it upon themselves to have this type of legislation, then we are, to use the vernacular, throwing in the sponge as far as the youth are concerned.

I know this particular matter is in good hands and instead of having further juvenile delinquents, we will have improved youth - we will have them reading the right things and the decent things and we will not have filth on the stands, the newsstands, where they can easily purchase it regardless of their age as long as they have the money to purchase it.

That is one of the main reasons that I came here to speak in addition to trying to remind the Commission to bear in mind the thoughts expressed by the United States Supreme Court when it gave its decision some years ago on the Roth Case and the case in California.

Thank you for your patience and your kindness.

MRS. HUGHES: Thank you, Mr. McInerney. The Commission appreciates the confidence you are placing in it.

MR. MC INERNEY: Thank you.

MRS. HUGHES: Mrs. McDevitt, are you going to make a statement?

MRS. BERNARD McDEVITT: I am Mrs. Bernard McDevitt of Elizabeth, New Jersey - I might add, formerly from Hudson County.

I came down here to voice my concern to your Commission in regard to your endeavor to eliminate obscenity from literature. I offer you an expression that you have providential guidance from above to direct and guide you in this most serious task. No praise, however elaborate, on my part would be adequate for your encouragement in this project.

I cannot help get excited when I realize that there are good people in government interested enough to form a group to study various obscene printed matter. And as an active member of the Citizens Cooperative for Decent Literature in Elizabeth, New Jersey, under the direction of Dr. McHugh and our Moderator Father John Galway, I have been active in the past 12 months, -- I can assure you that your work will be interesting, shocking, disgusting and yet gratifying.

It will be interesting in regards to the amount, the profit, and the manner of distribution, as you probably already know.

It will be shocking, and it has proved to be shocking, in regard to the vulgarity and indecency.

It has been disgusting in regard to the crudeness of presentation of this obscene material and yet it will be gratifying when it is all over and you do have a bill that will control it; it will be gratifying when you can

do something to improve literature by controlling indecency and obscenity.

Words are not forceful enough from me to describe some of the literature I have handled in the past year. The only reward that can be assured you is the same reward that we have and that is a feeling of satisfaction after a person has cleaned house or washed and redressed a child who has fallen into the mud.

I have children and I speak now as a parent, not that I am going to brag about my family but I have five children, ages 19, 16, 14, 10 and 6. I probably should be home now getting their lunch. But as a parent, we are very careful with our children. We provide the proper food. We provide for the development of health and growth. We are careful in selecting the proper seasonal clothing. We protect them against the variable communicable diseases. We give strict attention to their educational requirements. We carefully guide them in religious beliefs and traditional customs of our country. We protect them against fire, against poison, against accidents. Yet do we realize that in their recreation of reading obscene literature we can lead them into a world of amorality, vice, sex in its lowest form, and crime.

I could ramble on here telling you my experiences with teenagers. I have for the past ten years taught religion to high school students in the Confraternity of Christian Doctrine, both in St. Paul's School in Jersey City and in Immaculate Conception School in Elizabeth.

I do know that adolescent ideas of virtues and morale could be lifted in another topic of study. However, I feel that it may be stated here that the youth of today looks for guidance, control and protection from the proper authorities.

Anything you may do in your study to eliminate obscenity in literature will be in the direction of elevating the moral standards of the American youth for the future generation.

Now I want to say something else. In regard to being Union County Chairman of the Mt. Carmel Guild for the Apostolate of the Deaf, I might say that the deaf have a most adequate expression in signs for indecent literature. They shake their heads, they make a face as if smelling something foul and they shake their hands as if they have touched something hot. Perhaps you too will use the same expression when you are dealing with obscene literature.

I also represent, not officially though, but I am President of the Immaculate Conception Rosary Society which numbers 300 members. When I heard about your activity, starting a study commission for obscene literature, I was most anxious to get down here to wish you well, to wish you all the success that you might enjoy.

I didn't expect to be this late. Now, if there is any question, I am finished.

MRS. HUGHES: Thank you, Mrs. McDevitt. We appreciate your coming and I am sure the children will be glad their mother came down here today to help us

because someone else could feed them for once.

MRS. McDEVITT: Thank you very much.

MRS. HUGHES: Now, having heard Mrs. McDevitt, we have taken care of the requests of persons who asked to be heard at specific times. From now on we will go down the list as we have it here.

Three women are listed here from Westfield. Is one going to speak for the three?

MRS. BRUCE F. LINCK: Yes, I will.

I am Mrs. Marguerite Linck from Westfield. I have a letter here from our temporary Chairman of our newly formed Committee:

(Reading) My dear Mrs. Hughes: The Westfield Citizens for Decent Literature is just at the beginning of its organization. Therefore, I cannot give a statement purporting to set forth the views of the group.

I would like, however, to state my personal view which are as follows:

1. Obscenity, in all its forms, is more widespread in the United States today than it has ever been before during my lifetime.
2. Obscenity is harmful spiritually, mentally and physically. It is an evil. It has no redeeming features. It is degrading us as individuals and as a nation.
3. I pray that all decent people, especially our legislators, courts, and police, will rise up in unity to combat the trend which has steadily worsened over the years.
4. May God grant you and your Commission the graces you need to carry out your mission in accordance with His will.

Very truly yours, Edmund J. Conway, Chairman Pro Tem.

May I say for myself - How can we reach the man or the men who are the money behind these publications?

It seems to me that they are the primary source of this evil.

MRS. HUGHES: Does that complete your statement, Mrs. Linck?

MRS. LINCK: Yes, it does.

MRS. HUGHES: Are there any questions? (No questions.)

Thank you, Mrs. Linck. Will you read into the record, please, the names of the two women who have accompanied you.

MRS. LINCK: Yes. Mrs. Jane Wouters and Mrs. Audrey Vliet.

MRS. HUGHES: Thank you.

MRS. HUGHES: You are going to say that a woman changes her mind and for the moment I am going to change mine. I just told you that I would go straight down this list but I have been informed that Senator Connery has to leave and before he goes I would like the Senator to have the advantage of hearing Mr. Haig give his testimony.

ROBERT HAIG: Madam Chairman, distinguished members of this Committee and Ladies and Gentlemen: My name is Robert Haig. I am Executive Director of the Council of Periodical Distributors Associations. This is a non-profit organization, a national organization, the parent organization of eight regional associations of local periodical distributors.

I may say that I have watched the activities of your Commission with extreme interest and, having once before appeared before you in a private meeting, I am still very much interested.

I am not here to defend the actions of any group. I am here to explain their actions.

There are more objectionable periodicals openly available today, to adults and children alike, than ever before in our history.

The average adult is rarely attracted to these "off-beat" publications, and even when exposed to them, treats them with disdain or with humor and quickly dismisses them from his mind with little thought to the possible damage that such material may have upon the young, formative mind and personality.

Many of these objectionable publications are issued on an irregular basis by newly-created, consequently hitherto unknown corporations. They contain nothing remotely resembling literary values, a very minima of entertainment or education, and despite their pretentious appeal to the students of art, they present a most atrocious portrayal of art itself.

It is fortunate indeed that the sales of these publications approximate less than two percent of the total sales in the United States and Canada. But they do constitute a very vociferous minority; they are growing in numbers; and it would appear that while parental control is essential this control must be augmented with strong and effective legal control.

Scores of our State statutes and local ordinances have failed to meet the acid test and have been declared unconstitutional.

In recent years, our United States Supreme Court has handed down decisions which contain criteria for the determination of obscenity. But it has held, among other things, that:

"Sex isn't necessarily the same as obscenity."

"Publications accused of being obscene must be judged as a whole and in context -- not be isolated passages, words, or pictures."

"Unretouched photographs aren't necessarily obscene."

"To be judged obscene, a publication must go beyond the limits of tolerance imposed by the community."

"Books cannot be banned for the general reading public on the basis of what is fit reading for children."

It is small wonder, then, why we have such a serious and growing problem; why there is such a variance of public opinion; or why so many alleged publishers have jumped into the field of printing and publishing such trash.

Most of the better publishers are cognizant of these conditions and they too deplore the flood of these

publications which are obviously in such poor taste. However, there are others, seemingly respectable, dependable publishers, who have occasionally spiced up their editorial content in an effort to fight or meet this competition.

The legitimate local periodical distributor and the legitimate local retailer are caught in the middle of this most perplexing problem. They abhor censorship with the same degree of intensity that they detest obscenity in print. Both factions have taken drastic measures to curb the distribution and display of these publications through their simple refusal to handle them, but these publishers have found distribution channels through newly created local outlets or by selling directly to certain retail outlets.

Now I have just made a statement that wholesalers and retailers have taken drastic actions. And I was pleased to hear an earlier statement that New Jersey had such high morals and I tell you, from my own personal observation, and I have traveled all over these United States, the situation in New Jersey is a lot less serious than it is in some of your neighboring states.

I have also made the statement that publishers have found other means of distribution. I cite you a case that happened this week, where the Brauninger News Agency in Trenton, New Jersey, refused to distribute "~~Tropic of~~ Cancer." What has happened? There is a little distributor down in Englishtown who is coming into this territory with cases of these books. And I don't think anyone with average

intelligence could look at that book; first, I doubt if they could read it through; and, secondly, I doubt if they would say it was a work of literary art.

Now the mechanics, the actual mechanics of periodical distribution prohibits any real or lasting effect by wholesalers or retailers because such action, well meaning though it be, is usually successfully circumvented, as I have just outlined.

I know this is a perplexing problem and I know that some of us are rather carried away with our emotions when we see the damage or think of the damage being done. But I should like to explain that the business of distributing periodicals is extremely unique.

Of the several hundreds of titles which find their way to the newsstands each week, and I say several hundreds, none is pre-sold to the local distributor, the retailer, or to the public. All periodicals are sold on a guaranteed or fully returnable basis. The expense of all unsold copies is borne entirely by the publisher. Consequently, local distributors or retailers do not order specific titles or specific quantities of any title. This is the publisher's responsibility and prerogative and copies are shipped more or less on an automatic basis.

I should like to digress here for just a moment to tell you that there is not, to my knowledge, a publisher of a popular line of paperback books who has not at some time or another had, what I consider at least and many others agree with me, an obscene publication. There is not

one.

How then can a wholesaler or local distributor, doing business with these publishers for many, many years, know or suspect these obscene publications? How can a retailer know or suspect when he sees the imprint of an otherwise respectable publisher on the cover?

When we object as an Association, we are criticized that we are not being literal; we are criticized when we complain about some of these books that we are depriving the masses of good reading because this reading is unfit for children.

When I personally called the National Distributor of the "Tropic of Cancer;" when I called the National Distributor of "Lady Chatterly's Lover" and pointed out the danger of bringing these books from hard back to paper back, from bringing them from a \$7.50 package to a 75¢ or a 95¢ package I was told, "You would deprive the working man of the opportunity to read these great works of art."

I am not a literary genius; I don't profess to be, but I say that both books, in my opinion, - nor do I think I'm a prude - but in my opinion both books were very obscene.

But under this automatic system which I have referred to, it should be perfectly obvious that the local distributors, or the retailers, actually have little control over the merchandise they are called upon to handle.

Let me digress again. I've heard the suggestion made that this law embrace or include a provision that retailers must order specifically the specific titles and

specific quantities they require. The average retailer has in his store at least 400 magazine titles and about the same number of small book titles. There is not sufficient profit for the retailer to take the time and trouble to check his invoices, check his stock and to order or reorder as the case may be. It is an impractical approach because of the new publications which are constantly coming out and try as we might to examine them, this again is a tremendous job.

In 1957, the United States Supreme Court decided that "obscenity is not within the area of constitutionally protected speech or press." (Roth v. United States, 354 U. S. 476, at page 485.)

I should like to quote from Oliver Wendall Holmes - I believe it was he who said, "Freedom of speech does not give one the right to holler 'fire' in a crowded theatre." And in my opinion this is what some of these publishers are doing.

You know the obscenity definition which was included in that opinion - in the Roth v. United States case. I shall not repeat it.

This definition is clear enough, as an abstract proposition. But it is often difficult to apply to a particular publication.

The local distributor, or the local retailer, we submit is not qualified to make a determination of that magnitude, and it has been proven countless times that local prosecution is merely a stop-gap and really has no lasting

effect when publishers carry their litigation to the higher courts. The records will show that the majority of these cases, and particularly on magazines, have been dismissed on appeal.

We believe that the only real effective manner to combat this problem is to reach out to the actual source - the publisher, the printer, and the author.

We cannot, and I digress here for a minute again, - we cannot argue the proposal made by Judge Rafferty this morning; we cannot argue because in a bill which we have prepared I think we have taken care of most of those provisions.

Our definition of obscenity is the same; we have the same thinking as to a quick determination or a judgment of obscenity; we provide for extradition; we provide for the optional jury trial; and further, we provide that any fines can be collected by being levied against debts within the State.

In the belief that we are not reaching the right people in present litigation and as a trade Council, we promulgated and we sponsored the enactment of a Model Anti-Obscenity Statute, which has now been enacted in the States of Alabama, Arkansas, and South Dakota. Many other states have adopted many variations of this proposed statute.

Digressing again for a moment, while I cannot speak from facts I would suggest that it be checked in these three states, and I believe you will find that in

the instance of "Tropic of Cancer" the book probably was not shipped because of the existence of this statute because this statute gets to the core, it gets to the public.

It is all well and good for a state to have a statute aimed at its own citizens who sometimes are completely dependent upon publishers outside of that state. And we think that the only legal way and the only definite way to stop the flow of this material into a state is to have a statute or have laws that get to the publishers.

In the State of North Carolina they recently adopted a variation of our statute. They have a quick determination or a judgment of obscenity, and once having found that every distributor and every dealer is notified and the publisher is fined \$500 for each shipment he made into the State and the books or magazines or periodicals are destroyed by the sheriff.

Now, while our statute has not as yet been tested or challenged legally, we are advised by legal experts that it would appear to be completely constitutional.

Again I should like to compliment the progress that your Commission has made, Madam Chairman. We again urge your study of this proposed statute, which we furnished some months ago, and we again, speaking for the legitimate periodical distributors of America, pledge to you our complete support in our continuing efforts to correct this troublesome and dangerous problem.

We have been in this work for the past 5 years.

We have published box scores of the most objectionable magazines, at least based on the number of times they were mentioned in local litigation; and we have constantly urged our membership to stop distributing any questionable material.

Now, in dealing with hundreds of distributors we can merely give them signposts. We cannot, as a non-profit trade organization, and we would not, set ourselves up as censors, but we try to in simple language tell our members how they can make their own judgments.

At one time I had a rule of thumb which I explained to them - Would you want to have that magazine on the coffee table in your living room? This seemed to be a simple approach but I forgot that many of them have no children and this stuff is not particularly objectionable to them. So we recently sent a little letter to our members in which we say: "The following described test is that which has been suggested by a public prosecutor whose duties included the prosecution of persons charged with the sale or possession of salacious materials. His test was this:

1. Is the publication signed or is it anonymous?
2. Is the publication designed for distribution to conventional outlets such as libraries, book stores, etc.
3. Is the publication over-priced? This is a very important thing because you will find some of the more objectionable magazines far, far over-priced as compared to some of the fine publications you can buy for half or one-third the price. This is a very, very good earmark on which to judge a publication

4. Is the reputation of the author and publisher one which is generally known and respected?
5. Is the publication advertised in good taste as distinct from being hawked around by lurid and high pressure techniques?

If these criteria are not met, the wholesaler ought to examine carefully both the publication and his responsibility to the community of which he is a member.

That, Madam Chairman, concludes my formal remarks.

MRS. HUGHES: Thank you, Mr. Haig. I feel that Senator Connery is going to question you and he will be much more expert than I, so I am going to get two questions in first.

You said that your model statute, where it had been enacted, hasn't yet been tested in the courts. Is there any litigation pending based on it?

MR. HAIG: No, no there is not.

MRS. HUGHES: My other question is this: You mentioned the fact that the publisher said that he would be denying the people a work of art if he had not published this particular book in paper back. Would you say that he is the arbiter of literary merit, then, the publisher himself saying that he's the one who decides what is good for the people and what is not?

MR. HAIG: Madam Chairman, I will be very blunt - I don't believe the publisher of this particular type of material has anymore knowledge of literary art than I. He realizes that this type of material, unfortunately, finds a ready sale and he defends his actions by defending it on

the basis of being a presentment of literary art.

MRS. HUGHES: Thank you.

Senator Connery.

SENATOR CONNERY: Mr. Haig, you have mentioned that you represent a number of periodical associations, could you tell us, in general, the types or kinds of publishers that are included as members within those associations, - are they magazine publishers, are they book publishers? Would you give us a better idea of the people or the groups or the associations that you do represent and appear for.

MR. HAIG: Senator, the associations are regional associations - in this part of the country, the Atlantic Coast Independent Distributors Association. There are no publisher members. This is a voluntary organization of wholesale or local distributors of periodicals. They support the Council through completely voluntary contributions.

SENATOR CONNERY: Well, do you represent then just distributors?

MR. HAIG: That's right, sir.

SENATOR CONNERY: You do not represent the printer or the publishers of the publication or book or magazine.

MR. HAIG: No. I think I know what you are driving at, Senator. These local distributors do represent practically all the current magazine publishers - the Curtis Circulation Company, the McCall Corporation, Hearst, and others. I think I know what you are driving at because I was asked this question at a private meeting down here.

We, as a yardstick, say that the publishers represented in another organization, The Bureau of Independent Publishers and Distributors, are legitimate publishers. There are other national distributors and publishers who are not members of that Association and who are, in effect, suspects. We know the publications emanating from those national distributors and those publishers are suspects and we try to warn wholesalers to be careful. We can't tell them not to do business with them but we do explain to them that for your best judgment you should adhere and promote those publications which come through this other membership organization.

SENATOR CONNERY: You have said that only 2% of the publications that are sold represent so-called "off beat" publications. What is the basis for that statement, Mr. Haig.

MR. HAIG: Well, we make an annual survey of dollar sales. We know for example that we expect the figure to come out for 1960 at about \$650 million for all magazines sold over newsstands.

SENATOR CONNERY: You are speaking only of magazines?

MR. HAIG: That's right, Senator.

SENATOR CONNERY: You are not speaking of paperback novels or books?

MR. HAIG: Paperback books and magazines. We know that last year there were about 300 million paperbacks coming through these member organizations, for which I speak.

There are others, but through our particular operation there will be about \$600 million in sales in 1960, including the larger paperback book lines and practically all of the nationally known magazines.

SENATOR CONNERY: Now, you have mentioned this association or the associations that are doing business as distributors. What do they do with respect -- your associations, with policing their own merchandise or products or books or magazines?

MR. HAIG: Well, we as a national association publish a monthly house organ or trade paper. In that we report each new item of local agitation of this nature and we list the names of the publications involved. And once a year we issue what we call a box score and the number of times these various publications were mentioned in local activity or litigation. We cannot, as an association, come out flatly and say "Don't handle this." We do it by inference. And I believe I furnished this Committee with copies of those house organs and the box score on the occasion of our last meeting.

SENATOR CONNERY: Well, Mr. Haig, what you are doing really is advising the members of your association of periodicals that are not under suspicion necessarily but where dealers or distributors are actually being prosecuted.

MR. HAIG: That's right.

SENATOR CONNERY: What do you do beyond that?

MR. HAIG: Beyond that we can only counsel these wholesalers. For example, let me give you this case of

Tropic of Cancer. I called each of the 8 regional association presidents, some three weeks ago, when I heard that this thing was being rushed into paperback, and I warned them. Having tried to read the book a couple of months ago, I warned them against the handling of it and as a result there are many, many wholesalers, members of ours, who will not put the book out. This happened also with Lady Chatterley's Lover. But I don't dare put anything in writing, and I might be condemning myself right now.

SENATOR CONNERY: Your members handle paperback novels, do they?

MR. HAIG: Yes, sir.

SENATOR CONNERY: And you said that you called the national distributor --

MR. HAIG: Association President.

SENATOR CONNERY: The national distributor who was responsible for the distribution of the Tropic of Cancer.

MR. HAIG: Right.

SENATOR CONNERY: And your objection was that if it were printed in paperback form then a true evil would exist. Would not a true evil exist if it were contained within a solid back form?

MR. HAIG: I believe there is a little difference. I believe that when Tropic of Cancer sells for \$7.50 its sale will be limited. It certainly would not be sold to children, though it might inadvertently fall into the hands of teenagers. But I believe when you blatantly come out with it at 95¢ and distribute millions of copies - I believe

the purpose of promoting literature is gone and the purpose is merely to make a dollar.

SENATOR CONNERY: Well, it's a greater evil then if provided in a low cost edition. Is that what you are saying?

MR. HAIG: Well, I think it is merely a matter of arithmetic - if they print 20,000 at \$7.50 or 2 million at 95¢ there are that many more opportunities for it to fall into the hands of teenagers.

SENATOR CONNERY: Now, you have also said that in the language of the Supreme Court books cannot be banned because they would make objectionable reading for children.

MR. HAIG: That is the result of the Michigan v. Butler Case.

SENATOR CONNERY: Do I take it from that then that your feeling is that many of these newsstands and stores that provide for this type of merchandise should still be permitted to handle books and magazines that are in general - that would be very objectionable with respect to reading by children, but still should be permitted to handle them because they might be acceptable to certain groups of adults? How would you handle that problem?

MR. HAIG: As a practical measure, I would have to go one way or the other. I know that it's impractical to segregate your buying audience. Books are not sold like cigarettes, for example. Out of the 115,000 dealers very few are really big dealers - there are probably 10,000 - and if you have ever observed magazines, they are bought,

they are not sold. A kid comes in and picks up a magazine and throws his money on the counter and walks out. By the time he's out of the door you don't know what he has. So that I would have to go one way. I see no room for obscenity in print at any price but if the literary giants argue about the literary value then I say put a price tag on it, if it is a work of art, that will prohibit it from falling into the hands of so many people, not only children - there are a lot of young adults whose minds have not been fully formed and to whom it might be harmful.

SENATOR CONNERY: So that if it contains material that might be extremely objectionable for reading by children, it should not be published in cheap form. Is that what you are saying?

MR. HAIG: That's right.

SENATOR CONNERY: Well now, let's go one step further. I gathered from what you said that you felt that the retailer was not in a very good position to censor or to supervise the kind of literature that he himself was selling; that it was more or less beyond his ability to censor the magazines, the books, etc., that appear on his own stand for sale at a profit; that the profit is so small that he could not afford really to keep an inventory of what he has and would not be able to order specific magazines or books. Do I understand correctly what you have said?

MR. HAIG: That is true.

SENATOR CONNERY: Now, tell me this, how do you then get to the publisher of the publication who, shall we say, is printing in California and ships to New Jersey, and his material is distributed here in New Jersey and the individuals or firms or corporations who actually are printing this obscene material are located in California and the distribution occurs here in New Jersey. Now, how do we get to those people?

MR. HAIG: Under this statute a complaint is made and if a judgment is made by the court as to whether this book is obscene or not the publisher is served notice, of course, and I believe he is given 6 days in which to file an answer. If this book, this work of art, is still adjudged to be obscene an injunction is immediately issued, everyone is notified, the publication is withdrawn from sale and destroyed; and if the court so desires, a fine is levied and then that publisher's assets or debts within this State would be tied up and you would then collect these fines from the debts existing in the State which would be those with dealers and distributors.

SENATOR CONNERY: Well, that sounds pretty good except from a practical standpoint, it seems to me, it may be true that on this particular publication that has been found to be obscene, you can remove that from the stands, but how do you impose any fine or penalty against the publisher who is operating out in California who obviously would not have any substantial assets in this State. How do you bring him to justice? How do you bring

him to task? How do you prevent him from a repetition of the same thing that you have just stopped in only a single instance?

MR. HAIG: It still provides for extradition.

SENATOR CONNERY: For extradition from California to New Jersey?

MR. HAIG: Yes, sir.

SENATOR CONNERY: Do you believe that is constitutional?

MR. HAIG: We have been told it's constitutional. Whether this bill stands up in court or not, it has had this effect so far in cleaning these states. Now the first state that adopted a phase of this bill or a variation of this bill was the State of Virginia. That was in March of 1960. When this bill went into effect the publishers immediately stopped shipping this questionable material into the State of Virginia. So this is the effect of the bill. The publishers themselves are complaining about the lack of time we allow them, 6 days. They have been trying to get us to amend it to 20 or 30 days. But we rather suspect that the reason for this - and this is true too, that once any publicity comes out you can't find that publication on the newsstands.

SENATOR CONNERY: Do you believe that an indictment could be found here in New Jersey against a publisher who was publishing in California and that that publisher could be brought through extradition proceedings to New Jersey for prosecution?

MR. HAIG: We believe either the publisher or the national distributor of that publication could be. Most of your national distributors are located here in the East.

SENATOR CONNERY: Well, the national distributors may well be but the publishers and distributors for the kind of literature we are talking about here today, the smut, the filth and the obscene publications, are not usually of national origin nor are they located necessarily here in the East. They operate from many areas in the nation, do they not?

MR. HAIG: The publishers of the most objectionable or maybe I should say the most objectionable publishers are located in the Middle West or on the West Coast.

SENATOR CONNERY: And it is still your feeling that there is no real responsibility or obligation on the part of the retailer to check or to censor the material that he himself is selling?

MR. HAIG: Oh, yes I do. I don't say that he -- there are certain publications issued on quite a regular basis that are obviously obscene. Now, the average distributor, as I said earlier, these come from certain outfits who are suspects and the average distributor, the average intelligent thinking distributor will not touch them. They don't come into New Jersey, for the most part, through the normal legitimate channels of distribution. But you will find peddlers from New York City, and there are three of them in New York City, --

you will find peddlers there who come over here to New Jersey or go up to nearby Connecticut in a station wagon and they will find a few dealers who will buy this material at a much higher discount than they normally could and they peddle it right off their trucks. You will find a few dealers in every locality that will go for this higher discount. This is what I meant by the illegitimate channels of distribution, and where you find them you will find quite a supply of this stuff either down in the basement or under the counter. But the legitimate retailers won't touch this. The legitimate retailer depends upon his distributor and the distributor in turn depends upon his national suppliers for their taste in editorial content. But here's where they go astray - when a publisher, and I said earlier that there isn't a publisher of paperbacks who at some time or another has not had or has not issued an objectionable book, but the local distributor goes along on this automatic procedure, he doesn't see the hundreds of titles that come into his place, they go to his tie line and it becomes a mechanical process from then on until it hits the dealers.

Now the dealer looks at the imprint and he sees that this is a good publishing house and he has nothing to fear. But if something new comes in with a suggestive cover or a suggestive title, more suggestive let me put it than they usually are, then he becomes suspicious and checks it.

These are all fully returnable and the thinking

dealer will take them and throw them right in his returns immediately. Now, everything is fully returnable. One of the biggest problems in the business today is that of the premature returns. But the average dealer who is in a good community neighborhood will take the stuff that appears to be objectionable and throw it right into his returns immediately.

There are areas - and I don't mean to whitewash the wholesale business -- there are areas and, fortunately, I don't believe they are members of ours, where they will immediately take this and push it back to the dealer. There are areas where the wholesaler will try to exert pressure. However, these wholesalers or local distributors also represent Curtis, Readers Digest, Look, and these publishers just will not allow them to cut off a dealer for the promotion of this material. It just can't be done. They are too hungry for circulation and it's impractical. They won't stand for this for one minute.

Curtis has, for example, about 500 field men checking the operations of these local distributors at all times to see that they have the right number of dealers, to see that they expand their dealer coverage, and to see that their magazines are properly displayed. And they wouldn't tolerate for one minute the use of the Curtis line of magazines for the promotion of off-color magazines.

SENATOR CONNERY: Do you think that the provisions of Judge Rafferty's proposed bill could be effectively

applied against this kind of activity?

MR. HAIG: As I heard Judge Rafferty outline the provisions of his bill, I have checked our thing here, we find a great similarity except that I think we go a step further in getting to the publisher rather than to take your local citizenry and subject them to embarrassments, particularly retailers, when half the time they don't know from one week to the other, because there is nothing standard in this magazine or booklet, what they're getting.

Today they are issued about 80 small paperbacks book titles each week. These things are flying in at them 80 to 100 each week. He's also getting 100 to 125 magazines each week. And these magazine titles are changing, particularly the books and magazines you're talking about, the problem magazines. They change the titles if they get in trouble and next month or two months from now it will be issued under a different title.

SENATOR CONNERY: Then the only objection you have to Mr. Ruvoldt's proposal was that it would not be economically feasible or would not be profitable to the retailer to --

MR. HAIG: What proposal was that?

SENATOR CONNERY: To require that the retailer order, in writing, the publications or magazines that he so desires to sell at his place of business.

MR. HAIG: I think it would impose a hardship upon the retailer; I think it impractical because of the number of new titles and because of the frequency of release dates on titles; and I don't think the dealer, because of the fact that his profit is so small, could

afford to spend enough time to do this.

The average retailer, the average big retailer particularly, has made his wants known to local distributors and has said, "I just don't want this type." And where they have a good friendly working arrangement, there is no problem.

SENATOR CONNERY: I think that's all.

MRS. STILES: I would like to ask you a question, Mr. Haig. I heard you say that when the retailers receive magazines they do not want to sell they return them to the dealer?

MR. HAIG: Right, to the wholesaler.

MRS. STILES: Or to the wholesaler. What happens to the magazines from there on?

MR. HAIG: The magazines, I said earlier, are sold fully returnable or on a guaranteed sales basis all along the line. The wholesaler usually returns the upper three inches of the front cover and destroys the rest of the book. And when he sends that back he receives his full credit.

MRS. STILES: He destroys the magazines?

MR. HAIG: He is supposed to destroy them.

MRS. STILES: Or does he send them back to the national distributor where they, in turn, take a piece off and they get credit for it and then when it gets back to the national distributor, if that's the place, then they bundle it up and give it to used book stands or where they sell secondhand magazines sometimes at a higher price

than the original price?

MR. HAIG: That is a possibility but in the actual practice in this business - now here in this area, I just made the statement that they return the upper three inches of the cover -- here in this area where some of these national distributors maintain warehouses, in New York City or up here in Jersey City, sometimes they ask the local distributors to return the whole magazine, ostensibly for export purposes. We suspect some of them then turn around and sell them to secondhand magazine stores.

One of the requisites of a wholesale agency is that when you strip a cover, you tear the cover off, you are supposed to destroy the body of the book to render it unsalable. Now some of them have cutting machines and some of them put them in vats of blue dye so that they are unreadable, but it is a possibility that some of these national distributors resell the original newsstand returns to secondhand channels and at a higher price.

MRS. STILES: Well don't you think if they would destroy them they wouldn't go back into other hands and in that way they would be kept off the used magazine stands?

MR. HAIG: Well, theoretically, yes. But some of these publishers, as I said earlier, - in the first place they are not really publishers they are in the business to make as much money as they can, they care little for editorial value or art or ethics or morals, they sell them once and they take the returns back and

they will sell them again.

MRS. STILES: Well, if your distributors refused to take these magazines, there would be no market for them or very little market for them.

MR. HAIG: Where this is known, Mrs. Stiles, the distributor when he sees secondhand magazines coming back he stops handling the original edition.

MRS. STILES: I mean the original. You say that you have spoken of a couple of them and if your distributors refuse to take them from the national distributor there would be less chance of it being sold to the retailer to sell and, therefore, it would kind of keep them out of the stores, wouldn't it? It would help. Maybe it wouldn't be the full cure.

MR. HAIG: The national distributors of the most objectionable publications do not have, I don't think, more than 25% of legitimate distribution. Wholesalers do not handle everything that is handed to them. They are not obligated to. And when they have complaints, just as in this City of Trenton where I read in the newspaper this morning, or last evening, where there has been an arrangement between the distributor and one of the local authorities here, if they agree that this magazine is not good it has never seen the light of day in Trenton. I would venture to say there are probably 200 titles, good, bad and indifferent, that are never distributed in this City because the wholesaler has exercised his prerogative. And this is true in many other cities, in most of the

larger cities.

MRS. STILES: Then you believe that we have to get to the publishers.

MR. HAIG: I really do.

MRS. HUGHES: Is there any attempt to check redistribution of magazines that are coming back or have been returned?

MR. HAIG: The only time -- there is no attempt made to go out and really check them. The only time you see it is when you notice the magazine is back; you know that you handled it once and now it is back again two months later. This is a signal that the publisher is redistributing his returns and this is also a signal to stop handling that publication. Now this is not only objectionable magazines, this happens with some fairly good magazines.

MRS. HUGHES: I see. We were talking about a specific book today - I'm not going to mention it to advertise it anymore but we were talking about that. It was originally published as a hard cover book. Correct?

MR. HAIG: That's right.

MRS. HUGHES: Who authorized or who, rather, paid for the original publication of that book? A legitimate publisher? Did he order this type of book from the author or did he ever check after the author wrote his material and before it was in print - did he make any attempt to check on the material? I mean, that may sound silly but here we are talking about something

which has now come into the hands of young people and is considered by everyone to be very destructive. It came from somebody's brain originally and he isn't going to write that kind of thing unless he is paid sufficiently for it, and no publisher is going to put it out unless he feels that he is going to be repaid in turn.

MR. HAIG: The book was originally written in Europe, of course, and for many, many years, in fact until last year, import of that book was prohibited in the United States. There was a test case here a few months ago and finally they were allowed to be imported. Then and there a publisher decided, with all the publicity it got and the type of material, - "Well, this will sell."

Sure, he knew what was in the book and because of that knowledge he decided to print it, and it hasn't stopped there. It's just as in the case of another book which received similar publicity. Four different publishers brought that out. There will be other publishers bring this out in paperback. Then they will vie on a competitive basis. You'll see that book down as low as 35¢, probably, unless something is done to stop it.

There were four editions of that other publication ranging from 25¢ to 75¢, and all of them sold.

MRS. HUGHES: Thank you very much, Mr. Haig.

MR. HAIG: Thank you for the privilege of being here, Madam Chairman.

MRS. HUGHES: We are discussing when we shall recess for lunch. (Discussion) We will hear Mrs. Jones

and recess immediately after she finishes and return here at 1:45. Is that agreeable? I know there are several of you who have rather voluminous testimony and perhaps there will be a lot of questions.

MRS. SYDNEY G. JONES: I am Mrs. Sydney Jones and I am Chairman of the Bloomfield Decent Literature Committee. My address is 93 No. Fulton Street in Bloomfield.

I have been asked to make this report to encourage other citizen groups who perhaps at times get just as discouraged as we have.

The work of the Committee was initiated as a result of the 1958 Ninth Grand Jury Presentment of Essex County which states: "In several communities, the interest of local officials, civic, church, school, and citizen groups has resulted in the elimination of obscene material from newsstands."

The Bloomfield Committee, with representation from all of these groups and the Essex County Newsdealer's Association, has met monthly for two years. From the beginning we have felt out proper role to be one of disseminating to the public information about the problem and soliciting the cooperation of our fellow citizens; that the committee should be concerned with the protection of minors from indecent and obscene literature, and that for the present should concentrate our efforts on the magazines which are accessible to our young people.

Our activities can be summarized as follows:

1. Consideration of the problem, including a survey of the local, state and national statutes. This also included consultation with several resource people; such as the Postmaster, Assistant Town Attorney, County Sheriff's representative, and Assemblywoman Beatrice Stiles.

2. Request for cooperation of the local storekeepers, both by letter and by personal visits of committee members.

3. Enlargement of the committee to include representation from all schools - public and parochial.

4. Informing parents via articles in the Newsletters of the Home and School associations.

5. Letters to all clergymen in Bloomfield, informing them of the committee's aim and efforts and requesting their cooperation.

6. Compilation of a pamphlet designed for town-wide distribution, presenting certain basic facts about obscene literature and asking cooperation of all Bloomfield citizens.

Plans for the near future include the distribution of this pamphlet to each of Bloomfield's 17,000 housing units and the presentation of an appropriate decal for window display to all storekeepers who are cooperating with the committee.

We feel that we have made some progress and believe that the distribution of the pamphlet will further our aims; however, we realize that pursuit of our aims by voluntary means alone will never be completely successful.

We have reached the conclusion that a stronger State statute is needed.

And may I add, as a parent and private citizen rather than as Chairman of this Committee, that I am very proud of the action taken by our Acting Chief of Police in removing a certain book from our stands in Bloomfield. And I also would like to thank this Commission for the encouragement which they have given us, which I am sure you have given to other organizations.

MRS. HUGHES: Thank you very much, Mrs. Jones.

We are going to recess. If there is anyone who cannot remain for this afternoon's session and would like now to hand in a statement which will be included in the record, we will accept it. (No response.)

We will recess then until 1:45.

(Recess)

AFTERNOON SESSION:

MRS. MILDRED BARRY HUGHES (THE CHAIRMAN): The public hearing is now reconvened. I will call Mr. Jackiewicz, please.

F R A N K J A C K I E W I C Z: Madam Chairman and members of the Commission, my name is Frank Jackiewicz, and I am the President of the Union County Federation of Holy Name Societies. I am also a member of the Citizens Cooperative for Decent Literature.

I am not going to read from notes. I am going to talk off the cuff. For many years I have served on lay committees, committees that had their objective as eliminating to a considerable extent indecent literature from being sold in retail stores, and from my observation and experience I find myself admitting that from that level we cannot accomplish the desired result. We have attempted to convince the dealers that by cooperating with us and asking others similarly to cooperate we might eliminate this very thing for good. But the dealers, as willing as they are, find themselves in a situation where they cannot help themselves in more ways than one. First, while they have taken a pledge of cooperation, simply to get on the approved list, these very same dealers out of sincerity have featured books that were bad. Secondly, those who have been cooperating a hundred per cent found themselves not receiving the support of the citizens. Consequently, there was a loss on their side.

Surely it is a day that I will well remember, today, that the Legislature of the State of New Jersey has recognized the problems that we are being confronted with today, and have

set up machinery possibly to help cope with this situation.

As the speakers before me have said, certainly New Jersey is a clean place to live in, to bring up our children, and be the clean people that we expect to be, but that is not enough. Unless the Legislature takes full cognizance of this problem and enacts into law something which very definitely will have teeth in it that will discourage the retailing of this indecent literature, we at the lay level are very apprehensive that all our efforts are in vain. So we look to our governing body for assistance in that field.

Now, being the father of six children - they came into this world the innocent beings that they are, and we give them particular attention that they will be brought up to be clean and decent types of citizen and a credit to their community and a credit to their State; we see that they are provided with everything that is decent and clean; we send them to school, public school, and there again the governing bodies of the school see to it that these books which reach the children and which they study from are clean and decent. We also keep their social life clean and decent. You can imagine a young boy or girl of teen age - their mind is like a magnet. Curiosity is easily aroused, and from that curiosity the other things take place and from that other thing we are faced with what we are faced with now, and that is juvenile delinquency. And I attribute it to the bad books contributing their share in that respect.

When you come to regard what is happening to our teenagers - their lack of respect for authority, whether it be in school, whether it be out on the street with a policeman, or whether it even be inside the court house, - we begin to

wonder why children behave so strangely. I say this, the only reason why you have that strange conduct existing is because of certain influences which prevail. What are they? Yes, I'll say the literature has a lot to do with it - the indecent type of literature, not the good type of literature. That little drop of poison begins to set and from that little drop of poison it begins to spread just like cancer, and from that you have a problem child.

You know, you take measures against narcotics, against alcoholic beverages, but it's surprising to me that as yet we have not taken steps and measures to cope with indecent literature. Yes, it was stated here that indecent literature amounts to not more than two per cent, but that is the beginning. That is the cell and if it is not destroyed soon, it could enlarge itself and then go into complete destruction for others.

So, as a father of children, I am very much concerned about the spread of indecent literature.

MRS. HUGHES: May I interrupt you here, Mr. Jackiewicz? You told me to if I had a question in the middle of your speech.

MR. JACKIEWICZ: Yes, ma'am.

MRS. HUGHES: Do you, representing a group of volunteers, feel that there must be legislative action to carry out what you people were trying to do on a volunteer level? Is that what we are to understand?

MR. JACKIEWICZ: Madam Chairman, I am sorry if I have not made myself understood, but I did say that I am a member of the Citizens Cooperative for Decent Literature. It is a group of volunteers dedicated to giving up much of their time in policing the retailers to see that they do not carry

books which are considered not proper or fitting to be on display where teenagers gather together. We are more worried about the teenagers than we are worried about the adults. Their minds are still young and immature and it doesn't take much to throw them to the left instead of keeping them to the right. But, unfortunately, not all the adults will agree with us, but that's not my point.

Now, it was mentioned here before about Judge Rafferty's bill that may take care of the situation somewhat effectively, but again I say that unless there is complete uniformity to it, making it applicable not only as to one locality but to all localities and perhaps even overlapping authority, because what good is a law if it only applies to one section, to one community, to one municipality, and not to another. And I find that a great deal of this is the fault of the law enforcement agencies.

A situation developed in my area where a book was found - the title of it "Foreign Dirt" - by a mother in a town, which was bought from a dealer of an adjacent town. Now, this woman complained to the police department of her town and they acknowledged that they were helpless in the situation, that the authority belonged in the other town. You go to the other town and they say, "I'm sorry; I can't help you; you will have to go to your county prosecutor." So we go to the county prosecutor and present the problem and he says, "Well, I'm busy. Furthermore, I think the law is inadequate for me to act." In other words, he is lukewarm about the whole situation.

Who are we, as parents, then to go to for help on a problem such as this? It's not only our problem; it's

everybody's problem, and unless we take steps to meet this problem intelligently - well, we can't blame the juveniles for everything they do wrong, because we as adults have not taken full cognizance of what we should do as grownups, and we are just closing our eyes to it and hoping that things will work out for the best.

So those are my little remarks with reference to the hearing here this afternoon. I am certainly most grateful to the Commission, and to you particularly, Mrs. Hughes, for permitting me to put those remarks in the record, and I hope, along with the other speakers, that the legislators of this wonderful State of New Jersey will fully realize that this is something not for any local organization to cope with, not for any local committee group to cope with - this is a problem that must be resolved in the State itself, and I am sure that the bill that was offered by Judge Rafferty will in a great measure achieve that purpose. Thank you very much.

MRS. HUGHES: Thank you, Mr. Jackiewicz. I think you were accompanied by two gentlemen who wanted you to speak for them. Will you give their names?

MR. JACKIEWICZ: I will. I have in my company this morning and this afternoon two gentlemen from the City of Elizabeth. - My colleagues are Ed Carolan and Dan Moor. These gentlemen concur in my remarks.

MRS. HUGHES: Thank you very much. I will call Mr. Cucual.

I R A C U C U A L: Madam Chairlady, members of the Commission, my name is Ira J. Cucual. I am an officer of the Retail Tobacco Dealers of America. I am here representing the

Retail Tobacco and Confectioners Council of New Jersey. I have with me Mr. Henry Kahn, Secretary of the Retail Tobacco and Confectioners Council, and Leo Sternberg, also an officer of the Retail Tobacco and Confectioners Council. We, possibly to the surprise of some of those present at today's hearing, are here to offer our cooperation to your Commission and any effort to secure the passage of a bill outlawing the sale of obscene literature. We are here to respectfully request the Commission to as clearly as possible define the word "obscenity."

During the morning session, I heard the word "objectionable" used. I heard the word "indecent" used, the word "filth," and there is a question in my mind as to what constitutes obscenity.

For the purpose of the record and to clear some of Senator Connery's questions, I would like to step-by-step illustrate the mechanics of magazine distribution to the point where the consumer makes the purchase.

In the beginning, there are what are known as publishers who vend their books through wholesalers. These wholesalers in turn vend the same books to distributors in local areas who then sell, or "service" I should say, to the local retailer.

In Union County where I had a store for approximately 25 years, this very morning the retailer would have received a bundle or bundles of magazines, tightly secured by wire, the contents of which are unknown to the retailers until he breaks or cuts the wire and examines each book against the accompanying bill.

Judge Rafferty - I believe I have the title correct - has a suggested bill and, as a layman, my interpretation of this bill would indicate the fact that I had that bundle in my store,

should there be a book in it that is later judged to be obscene, I am guilty of possessing and liable to penalty for the possession of obscene literature. This, I believe is definitely unfair and I would beg that the Commission check into this question carefully.

The word "objectionable" - objectionable to whom? What might be objectionable to me might not be objectionable to some of the very fine members of the clergy who are present with us on this date. I say that this word cannot be used. I do not envy the job of your Commission in trying to clearly define the word "obscenity."

To get back - I digress for a moment - to the distribution of magazines. Once this bundle, or in some cases six, eight or ten bundles, reaches the retailer, he must in turn check them against the bill to see that he hasn't been undercharged or overcharged. If he is undercharged, he keeps it to himself until he is caught. If he is overcharged, he screams. To answer some of the other speakers' questions, "it would be almost a physical impossibility; it would definitely be a physical improbability to scan each book or each title to determine the fitness or nonfitness of that book for the particular store.

In Union County, and I believe in all the counties of the State, to the best of my knowledge, we do have the ability or are enabled to fully return any and all magazines which are not sold by us. There is a very fine line drawn as to what might happen if you return certain titles too quick. On the whole, I think the average distributor is fairly decent about it. I think he will accept all returns without question.

I am not talking for 100 per cent of the retailers' dealings with 100 per cent of the distributors. We in the retail end of the magazine trade are very desirous of having a law passed that - I am afraid I will have to use my own expression - will take the retailer off the hook. We do not feel that we are qualified; we do not feel that we have the time, nor do we feel or believe that we have the ability to determine which books are acceptable to all members of our community. We would prefer that we not be harassed by either the police or citizens' committees. We do feel that we would 100 per cent cooperate, under the fear of penalty maybe, with the law enforcement officials of the State and our local governments.

I believe, and I am sorry that some of the speakers this morning were not able to stay, particularly Senator Connery who had some very good questions.--

In closing, I would say that I would gladly answer to the best of my ability honestly and sincerely any questions that any interested person might have. I want to thank you for the time and effort you are expending in this tremendous job.

Thank you.

MRS. HUGHES: Thank you, Mr. Cucual. I want you to know that the Commission members feel that you have cooperated 100 per cent right along with us, and we appreciate that.

In your talk, you mentioned that you have to check the books against the accompanying bill. As you do so, do you check merely the title or at least the cover? I know that sometimes the cover is not indicative of what's inside at all and vice versa, but as you check the book don't you at least see that?

MR. CUCUAL: I'm very glad you asked that question, Mrs. Hughes, particularly on pocket books. I'll just try to make up a bill so that you can picture what I have in mind. You might be charged - again just using figures - for 50 pocket books - 10 #484, 11 #192, 13 #964. Now, I might, if I have a minute or I see a cover that might attract my attention, check the title at that minute, or I might not. Should I check the titles, as I said, how would I know that that particular book is obscene.

Now, I'm going to be perfectly honest. The very book that we mentioned this morning, or that was mentioned this morning, "Tropic of Cancer," - until I saw a copy of it, I did not have the least idea of any of the contents of that book and I'm going to make a statement that might appear amusing to some people, but I have had people ask me for that book who were under the impression that it was a discussion on the subject of cancer, and I say that in all honesty and sincerity - adult people. I have had only one minor ask me for the book - a 17-year old boy. He did not want to buy it. He asked if I had it. He didn't have ninety-five cents on him, I don't think.

Does that pretty well answer your question?

MRS. HUGHES: Yes, that answers that one,

Now, you said something about sending the books back too quickly and you said there would be an objection. What do you mean by that? What is "too quickly"?

MR. CUCUAL: Well, in Union County, we made a deal with the Union County distributors - oh, it must be some 15 years ago, possibly longer - that we would keep all monthly books 30 days before we returned them. We would keep all quarterly books

30 days before we returned them. The reason I brought that up was that quite often a retailer experiencing financial stress on the day his bill is due possibly will clean off his rack and send that many books back equivalent to the number of dollars he owes the distributor just to get his bill paid up, and it would be quite a burden on the distributor; in other words, rather than pay for 100, he would take off the good-selling books and send them back to the distributor in lieu of cash payment.

After all, it's some years back and I may be a little incorrect in something I might say, but we did make that deal with them.

Now, we have in some of our towns in Union County, as you are familiar with, more active cooperative committees or citizens committees or church committees, and the stores cooperate a hundred per cent, and they do take all titles that are on the list furnished them by that committee and send them back immediately. To the best of my knowledge, none of them have run into any difficulty with the distributors for doing that.

MRS. HUGHES: Another question: You mentioned that you didn't have any method of judgment; you have no criterion to go on. Would you want a list which seems to be objectionable to most people as a kind of censorship?

MR. CUCUAL: A list by legal authorities would be acceptable. I say that only because some of the lists that have been furnished by citizens committees have carried so many titles that a good many stores would be out of the magazine business if they cooperated honestly. And, too,

you will find titles on the lists - now, I consider myself quite prudish in the sale of books, but I will carry titles that often are on that list. There is a wide field of disagreement as to what is objectionable and what is not, and that is the reason I feel that it should be this Committee's job to differentiate between objectionable and obscene.

MRS. HUGHES: Thank you. I have another question: In the case of paper backs, have you any idea what percentage of those is purchased by minors as against those purchased by adults?

MR. CUCUAL: Percentagewise, it would be very hard to give you, but it would be so small, in my opinion, that it is negligible. I have argued - and I didn't want to use the statement here; I have been working on this subject as far back as seven or eight years ago when Father Carney was in our diocese, and I have always argued that the sale of this type book or magazine to minors is overemphasized. I think that the sale to minors is negligible. I don't think they have the money for that purpose, and if they do have the money I think they use it for purposes other than buying magazines and pocket books. I don't think that it would amount to one half of one per cent. I think that a much larger amount would get into their hands through their own homes in actual purchase by far.

MRS. HUGHES: But there is a large purchase of them by adults, you say.

MR. CUCUAL: Definitely. Of all books, you are referring to?

MRS. HUGHES: No, paper backs.

MR. CUCUAL: Of all paper backs? Well, paper backs

are very big sellers. After all, there must be several thousand titles on sale during the course of a year.

MRS. HUGHES: Have you any idea what percentage of paper backs is sold as against the so-called comic books?

MR. CUCUAL: I don't think I could answer that honestly. When I had the store in Elizabeth, my sales of comic books were extremely high. At one time, I know my percentage of returns on comic books was only about five per cent. So I think a question like that has to be answered by the distributor. I don't think I could answer that anywhere near accurately.

MRS. HUGHES: But the sale would be more to young people in the case of comic books versus the other, would it not?

MR. CUCUAL: Well, definitely a larger amount would be purchased by juveniles, but there is an extremely large sale of comic books to adults - I presume bringing them home to children.

MRS. HUGHES: Thank you.

Mrs. Stiles, do you have a question?

MRS. STILES: What is your feeling toward having retailers order their books by written order?

MR. CUCUAL: I'm glad you asked that one. That is unworkable, definitely unworkable. I would have no way of knowing - in my particular store now, I don't have magazines, by the way, but for 24 years I did in another location. I'm in a high-class town now; I'm in Mrs. Hughes' town. In a store that handles magazines and/or paper backs, I don't see how a dealer could possibly make out his order. I don't see

how he could possibly know how many copies of X magazines he would need for the next issue. It would be definitely unworkable. We will take The Ladies Home Journal. In a town like Bloomfield or a town like Union, Mr. X's store might sell 25 copies during the month of May. During the month of June, his sale might drop to 20, and during July and August, the vacation period, it might drop to 3. So if he ordered 20 and returned 17, for the month of September, where the sale would start going up again, he would get from the distributor, not 17 but 3. So the whole mechanics of the distribution system would be knocked out of gear. I don't see how any store of reasonable size would be able to order, and have a system economically sound. I am taking that into consideration too.

MRS. STILES: You couldn't strike an average, in other words?

MR. CUCUAL: I don't see how you could. The Union County News some five or seven years ago went through an expensive reorganization of their distribution of comics.- that's when I got the figure of five per cent returns - so that they would better serve everybody; in other words, they would have to cut down somebody and add to another, and, so far as I personally am concerned, it worked fine. They had my figure worked out pretty well, but I have known other stores to complain bitterly that they got far too many comics. Where it fouled up, I don't know, but I don't think a method has been discovered that could solve that problem. You see, the distributors once or twice a week - I am talking about the stores that sell a reasonable number of magazines - they don't hit every store - they have a checker go around; say,

today I get the Ladies Home Journal, for the sake of illustration - I get 25 copies. They know by Friday or next Monday I should only have within five left - four or six is all right - but if they come to my store on Friday or Monday, the checker, and they find I have 17 left out of the 25, they will take anywhere from 8 to 10 from me to give to the next store that sold out the very day they came in.

Now, they don't do that on all magazines either, because I don't think the publisher spends the money to warrant that service. They do it on the better sellers - Ladies Home Journal, Saturday Evening Post, Life Magazine, Readers Digest, and all the better grade magazines.

MRS. HUGHES: Mr. Cucual, it has been intimated to this Commission from time to time that there is an evasion of the laws which we have on the books at present against tie-in sales, the evasion being that if you do not take these other books, the unacceptable ones, perhaps the next time you want the legitimate books you will not get the number you request or the number you can use, or that there will be a late delivery. What is your personal view on that?

MR. CUCUAL: My personal view is that that is not a correct statement. I think you will find dealers who will disagree with me. You will find dealers who will disagree with me on every statement I have made here today. But I don't think that is an absolutely correct statement. Now, there is again a fine distinction - why should Joe's store get the cream of the crop and the next store take nothing but the junk. We do have junk in the magazine business. By "junk," I mean, well,

in some stores mechanical magazines don't sell, or boxing magazines don't sell, or magazines on Hi-Fi. Maybe in my store they don't sell. Well, why should I take nothing but that when the store up the street gets the better selling magazines? You will always find some dealer some place who will complain because he has customers for 25 copies of X magazine and can only get 20. I could name a few that are very close in their handling of copies to the retailers. The New Yorker Magazine is one. They don't just give them to every store along the line just for the sake of having them on the rack. If they give you one and you sell it, the next issue they might give you two, and then increase you accordingly, but if you get one for ten issues in a row and then haven't sold one, they are not going to continue giving them to you. Some dealers think that's unfair. I can't see any unfairness about it.

MRS. HUGHES: Well, then, there is some kind of picking and choosing on the part of the distributors then if they give you certain magazines in smaller numbers.

MR. CUCUAL: Well, only on the basis of sales. I think they determine it on the basis of your sales; at least that's my guess or my interpretation of it. I've never been cut on any magazine that I sold well. I've been cut on magazines - years ago, Life Magazine used to be a tremendous seller. Due to the heavy campaign on mail subscriptions, Life Magazine has gotten to be a very poor seller in the stores. Well, at one time I used to get something like 50 copies, but during the last months that I was in the store in Elizabeth I don't think I got more than three or four. I didn't need

them. It would be silly for me to continue getting 50 copies.

MRS. STILES: Do you think that if there were less of these objectionable magazines on the stands, your sales of the better magazines would improve?

MR. CUCUAL: That's a hard one to answer, but if nobody had any of the poorer magazines or the objectionable magazines - if they weren't in existence - I think we would all be better off.

MRS. STILES: And your sales of the better magazines would improve?

MR. CUCUAL: Well, if it wasn't on magazines, maybe it would be on something else that may be more profitable.

MRS. HUGHES: Well, thank you very much, Mr. Cucual; we appreciate your coming.

The next name on the list is a little difficult for us to know who it is. Oh, I know - it's LeRoy D'Aloia. Somebody scribbled it in.

Mr. George Brauning.

G E O R G E B R A U N I N G E R: Madam Chairman and Members of this Commission, I welcome the opportunity to be of any service to you in whichever way I might serve.

My name is George Brauning. I am the wholesale distributor of magazines in Trenton and the surrounding territory. I have no prepared statement and I will just confine it to a few remarks, if I may.

I have been interested in this problem of salacious material for many years, having served the Association as President and having been Chairman of the group that Mr. Haig represents two years ago, the National Periodical Association.

I endorse the statements that Mr. Haig made in behalf of the wholesaler associations, and my speaking can only be to the subject as an individual, as an individual wholesaler.

The problem of controlling the sale and distribution of salacious material is a very difficult one, at least from my experience. I think some 12 or 13 years back, when it first came to my attention by complaints from citizens, an attempt was made and we were fairly successful in organizing a Citizens Committee in Trenton and, with the help of the Prosecutor of Mercer County, we formed this Committee to sort of screen books and magazines that were felt to be obscene or salacious and also to accept complaints from citizens or dealers, in which the Committee would review the subject matter and determine whether it was or was not in their opinion objectionable for sale, and in case they decided it was, I withdrew the publication from distribution or sale among the dealers. Now, more or less, this plan has been in effect up to the present time.

You may have read the newspapers, and we withdrew the book - in fact, it never got on the newsstands - the book that has been discussed here this morning.

This action has been taken by us and we leave ourselves open to judgment of the law, because we have taken the distribution or the interpretation of the freedom of the press in our own hands, and if your Commission can come up with some law that will guide us, it will really be a big help rather than decide ourselves, because the publisher of a book or magazine believes in most cases that his magazine, article or book is needed by a certain segment or all the

public and would like to have it exposed for sale, which the distributor in effect agrees to give him.

In supporting the model statute that Mr. Haig referred to and which we submitted to your Committee, we have tried to take into consideration all the facets pertaining to and influencing this problem. In my opinion there are five: there is the retailer, the local wholesaler, the national wholesaler, the publisher, and the author.

As was very ably described by the man who spoke before me, his statements can almost apply to the wholesaler too. The magazines or books are shipped to us on the publisher's order and we in turn bill them out to the dealers on the basis of past sales. In a year's time - and this is partly in answer to the suggestion that the retailer or the wholesaler act as his own censor and determine whether a magazine should or should not be on the newsstands and be salable - in the past year, I would estimate that we distributed in this area between 9500 and 10,000 issues of magazines and small books. Now, if you put it on the basis of a weekly count, it means that someone would have to read through approximately 200 titles of magazines or books per week to determine whether they are or they are not, and you must still pass judgment - your judgment against the community's judgment as to whether they are or are not acceptable.

You asked the question as to determining the order of the retailer, whether he could control his order, and this same question could be asked of the wholesaler - can he control his order? Well, to very little extent - and this is because of the mechanics of the business. We are ordered a given

number of Saturday Evening Posts, maybe 2,000 as an example. Yet another town in Florida, for example, or in Washington, D.C., proportionately speaking, would get ten times as many Saturday Evening Posts as we get, because this is not a magazine that sells particularly in this area as against maybe comic books or some other type of literature or magazine or book. The publisher determines the order on the basis of past sales records; the wholesaler determines the order on the basis of past sales records of the individual dealer, and then keeps a record of the number of copies the retailer receives on this issue, marks in alongside of it the number of returns that he makes, and then buys it on that sale; then keeping this month after month or issue after issue he determines what he should order him for the next issue. And this is a mechanical process that doesn't take any consideration whatsoever of the title or the contents of the product that we are distributing, and I guess I could say that because of the economic conditions of the business it just is not practical to set up a censorship board in each individual agency for a wholesaler any more than it is for a retailer.

I have tried to control this from a personal point of view. I don't speak now for all wholesalers, because each one is an independently-owned business in each city, but I would guess that we have now refused to distribute some 125 magazines of publishers. Maybe I am in a better position than some wholesalers because I refuse to distribute them and then say, "So what?" and will not put them out. Maybe another wholesaler can do more and maybe another wholesaler can do less. These titles that we do not distribute, we are not barred or refusal

was made, not on the basis of my own thinking but on the basis of the Committee that is represented through the Prosecutor's Office.

So to sum it up without going into too many details, - I will be glad to answer any questions that I can. - we have tried to do something to cooperate with the community to give them magazines and books that would be acceptable. I don't think we've made a huge success of it, because you need more than just the human element in deciding which is good and which isn't good.

That about completes the remarks I can make. If you have any questions, I will be glad to answer them.

MRS. HUGHES: Well, with this group which you say sort of went through the magazines and determined the ones which should not be sold, did they know that there were publishers, as Mr. Haig mentioned this morning, who were sort of suspects and did they watch their material more closely than other material?

MR. BRAUNINGER: Well, of course, I can't speak for them but I would not think so. I would think that their determination was made on the basis of an individual title that appeared on the newsstands.

MRS. HUGHES: From their own personal opinion.

Did you, after the Supreme Court allowed Lady Chatterley's Lover to come in; was that sold in this area?

MR. BRAUNINGER: I believe it was.

MRS. HUGHES: After the determination by the court.

MR. BRAUNINGER: No, if it was determined it wasn't to be sold. Peyton Place was not sold. I mean, I remember

that distinctly. It was sold in some stores but it was not sold through any dealers that I distributed to. But it was still on sale in the town. Now, I can't answer for Lady Chatterley's Lover. I don't think it was, but I would not say for sure.

MRS. STILES: Mr. Brauning, you mentioned that the retailers get magazines they don't want to sell that are objectionable and they return them to you. Then do they also get a new supply the following month?

MR. BRAUNINGER: No. We send out notice to our dealers about twice yearly that any magazine that you find objectionable to your neighborhood or to your customers, please return it at once. Now, I'm speaking as an individual - I can't speak for all wholesalers.

MRS. STILES: Thank you.

MRS. HUGHES: We have gotten a little bit off the track today because of the fact that this book has gotten so much notoriety the last couple of days. But coming back to the comic books, this group that you were working with, naturally have been examining things in order to decide whether a book should or should not be put on the stands; have they noted any increase in violence portrayed or any perversion hinted at in the comic books themselves?

MR. BRAUNINGER: No, I haven't had any complaints on the comic books for probably six or seven years. The comic book publishers have an Association of their own and they have a censorship board in which they have tried to supervise the editorial content of comic books, and since this board has been in existence the complaints against comic books have been

practically non-existent.

MRS. HUGHES: How long has it been in existence?

MR. BRAUNINGER: I would say for five or six years - I'm not sure. I could get the address. I don't know it off-hand, but they have an office and a censorship board in New York City.

MRS. HUGHES: Well, as Chairman of this Committee, I would very much appreciate getting the name and the address of this group.

MR. BRAUNINGER: Maybe Mr. Haig knows it.

MR. HAIG: Comic Books Association of America. They have offices in New York City.

MRS. HUGHES: Thank you.

E L M E R U P D Y K E, J R.: I am the Police Liaison Chairman of the Mercer County Clean Literature Committee. I could give you some additional information on that.

MRS. HUGHES: Well, if no one objects then, will you come down to the microphone and testify so that there will be a complete record?

MR. UPDYKE: Madam Chairman, my name is Elmer Updike, Jr. I represent the Sheriff of Mercer County, and I am also Police Liaison Chairman of the Mercer County Clean Literature Committee. Now, this Committee was organized about five or six years ago by the then Prosecutor, Mario Volpe, and has been carried on by Prosecutor Rutkowski and the Sheriff and the police officials of our county, plus the clergy and the laity of the county, representing all walks of life. Mr. Brauninger has been very cooperative with us. At our meetings we invite the distributors, and Mr. Brauninger is the leading

distributor in this area and we have very harmonious relations with him. We have 13 municipalities in Mercer County and 9 have organized police departments, and they have officers assigned to check newsstands for objectionable books and magazines, and also each township and borough in the City of Trenton have citizens appointed by the governing bodies which belong to this Committee. They also check stores in their own neighborhoods, and if we do spot a book or magazine that we believe would be obscene we contact the Prosecutor and, as Mr. Brauninger said, we have a meeting, and if it is the consensus of opinion of the Committee that the book should be withdrawn, we so state and Mr. Brauninger has been very good in withdrawing it from the stands.

It is very gratifying to see the public interest displayed here in support of your police, as we often get the impression that we stand alone and unsupported in protecting the manners and morals of the community in which we serve. I think this thing can be licked if we get the proper law and the proper backing of the public.

I would be happy to answer any questions about the Mercer County Clean Literature Committee. It's been in existence quite a while, as I said before, and we believe we are doing a magnificent job.

MRS. HUGHES: Thank you. I was about to ask, before you ended your speech, if the police did feel that way, that they were out sort of on a limb, and when they brought in books that they thought shouldn't be there whether they themselves felt that the public was not behind them, and that they were doing a job and no one was backing them up.

MR. UPDEKKE: Yes, ma'am. We feel that on a lot of

laws, and this one too.

MRS. HUGHES: Thank you. I will call the Rev. Paul Hayes.

R E V. P A U L H A Y E S: Madam Chairman and members of the Committee, my name is Father Hayes and I represent the Office of the Legion of Decency of the Archdiocese of Newark.

This Committee of the Legislature is investigating a social problem which we and many of the public feel is having grave adverse effect in our State and one which at the same time you are interested in taking steps to control - the obscene printed matter - and also to protect at the same time the rights guaranteed by our Constitution, particularly those of free speech and freedom of the press.

Before making a few very specific suggestions, I should like to first make some general observations. Today we hear a good deal about the rights of publishers and distributors relative to their freedom to publish what they wish. First of all, we must remember that the Supreme Court has specifically ruled out obscenity, saying that it does not come into the scope of the protection of our Constitution. Again, in the Roth case, which has been tossed around all day, the Supreme Court said, "We hold that obscenity is not within the area of constitutionally-protected speech or press." It is the task of the Committee to determine a norm for what is obscene in accordance with contemporary community standards and, having done so, to make recommendations to cope with the problem. Those, therefore, who begin with the idea from the very outset, as I have had expressed to me within the past 48 hours, declare

that nothing can or should be done from the legislative angle in this problem are begging the question. That is precisely what this Committee is set up to do.

Secondly, we hear very much about the protection of rights of minorities, but we must not forget, I think, in this whole question that there are minorities on both sides of the issue and that moreover the majority have rights to be protected too. The publishers have rights, the distributors have rights, but so too do the parents, so do storekeepers, so do all of the public - the rights of retail dealers, for instance, not to have pressure on them to sell what they are reluctant to sell - and the right of parents to bring up their children in an atmosphere reasonably free from defilement, the right of children to be protected from grave and insidious moral danger, and the right of all children or adults not to be assailed at every turn by a display of indecency.

Third, the testimony of the various authorities relative to the connection of juvenile delinquency, crime, and anti-social behavior, and obscene printed matter certainly should not be discounted. We hear arguments relative to that also.

I should like to submit, publicly now as I did privately, to you a compilation of 14 pages of cases and testimony of authorities relative to this very connection, but I won't take the time to read 14 pages. If you don't mind, I will submit that when I give you the statement later on.

Fourth, in coping with this whole problem there are several methods which may be and should be employed, I think:

Legislation; more enlightened and perhaps effective law enforcement; action by local or civic groups, and individual action flowing from public awareness of the problem.

We feel that the work of the Committee can serve not only to draw up legislation but also in these other ways too to be of service to the community, to make the findings public, for instance. I'll say something about that in a minute.

Now, in light of all of these things, we have worked for over a year on a piece of legislation which I will submit to you. I'll read it; it's brief. Since we have drawn this up, we submitted it to various people, including some store-keepers, representatives of the public, some of the prosecutors and legal authorities, and among them the Hudson County Grand Jury Association and also the Prosecutor of Hudson County, and hence the legislation which you heard presented in the name of Hudson County this morning - that legislation we had drawn up. I would like to point out a few things about it and to point out a few changes that have been made in it which I would strongly suggest.

The act which we would recommend would be this:

"An act to control the sale of objectionable and/or unwanted printed, written or pictorial material, by prohibiting the sending, distributing or delivering of such material by any person to a retail merchant for sale by the latter, and which material has not previously been ordered in writing and is not desired by such retail merchant.

"WHEREAS, the dissemination of obscene material is increasing and is inimical to the common good; and

"WHEREAS, there are difficulties involved in construing in law the obscene character of certain material; and

"WHEREAS, one method employed in disseminating such material is that scheme whereby certain persons send, distribute or deliver such material to retail merchants, for sale by the latter, which material had not previously been ordered and is not desired by such retail merchants, tied in with the sale of other material which is desired by such retail vendors, and

"WHEREAS, this method of distribution is onerous from several aspects to many retail merchants,

"NOW, THEREFORE, be it enacted:

"Any person who sends, distributes or delivers to a retail merchant for sale by the latter, a book, pamphlet, magazine or other form of printed, written or pictorial material which said merchant had not previously ordered in writing, specifying the title of such publication he desired, shall be guilty of a misdemeanor."

Now, the comments on this law: At the present time, retailers must put up money and have their money tied up for a period of time until the merchandise is returned for material which many storekeepers do not desire and do not intend to display or sell. I know there are many storekeepers who wish this type of material to sell that we are speaking of, which I feel is far more than two per cent, and I guess it depends on a definition of what is objectionable. It may be two per cent of hard core pornography; I'd say it's closer to 60 per cent of objectionable material, according to the people I have talked to. Some want to sell it and like the situation the way it is, because there is no responsibility then on them

and they can say, "Well, I don't want this; I got it from somebody else." However, there are countless storekeepers who certainly do not want this material, do not want to put it on their stands, and yet are forced to take it for a period of time at least.

Secondly, storekeepers must now spend their time to sort out undesired material from the shipment.

Third, retail merchants must use storage space in their store, which they can ill afford usually, to retain material until it can be returned.

Fourth, the present tie-in sales law we feel is ineffectual in dealing with many injustices now present. Moreover, sometimes in discussing this legislation with some people they say, "We have this tie-in sales law; what's the difference?" Actually, the present tie-in sales law discusses the situation in which the distributor withholds material. This law, as I read it to you, covers the situation of the distributor not withholding but sending more material than is desired. That is the other side of the coin.

Fifth, there is difficulty in determining the obscene character of material and so the word "obscene" is not found in this law. It's a question of justice to many storekeepers who feel they are being treated unjustly, and I might say, by way of parenthesis here, just the other day - Sunday, as a matter of fact - a storekeeper told me that he absolutely did not want any of this material, has never sold it, and constantly once more he is getting a little more filtering into his store. He said he just does not want that.

I might relate another incident, while we are filling

in details here, of another particular storekeeper in one of our northern counties who has been getting material for a long time in a store that he just doesn't have space to store this in. It's been foisted on him, and on three or four occasions he contacted the distributor with the request that this not be sent, Nothing ever happened, and so, with the permission of the storekeeper, I wrote a letter to the distributor, whom I know personally, and asked if he would not include anything on the enclosed list that I gave him to the storekeeper as a personal favor to me, that this man had requested it constantly and now, as a favor to me, would he just not send it. The result was that the next week he got more than ever objectionable material.

I would be glad to furnish names privately. I have not the permission of the storekeepers, so I won't say it publicly or get down to the county in which it was.

So the word "obscene" is not here because of the difficulty in interpretation, and in discussing the outline of this law previously much has been said about the unworkable aspect of this, and most of the comments were made on the basis of the fact that the particular number of magazines desired would be difficult to foresee, etc. You will notice in the law which I read that there is no question of title and number. It is title only - requesting the title that they want, and I believe that any decent person need not take very much time to determine in his own mind, going through all sorts of cases or anything else - I think he can just take a look at them and say, "I do n't want this for my store; that's all."

Now, that would be the piece of legislation we offer for your consideration. The other suggestions we would like to place strongly before the Committee would be these, that in some way there be sufficient funds given to the Committee to carry on this work. I think the problems are too broad in scope to solve in a year. I certainly would like to see the State get some sort of funds to continue this and, in fairness to all sides, to come up with the proper legislation and to be of service to the State; that there be a full-time investigator or staff member who could gather material to present to the Committee. We realize that the members of the Assembly and the Senators are involved in many more things besides this one project and there just is not the time to do the job required and gather the information required.

We would also like to recommend that the findings of the Committee be publicized in booklet form, as New York does and has done for years, so that it can get into the hands of local law enforcement officers in cities, prosecutors, etc., as well as the public so that they can be guided thereby.

We have heard much said about whether teenagers buy this or whether the storekeepers have sufficient social responsibility not to sell material to teenagers, and I'm talking about the very, very objectionable magazines that are around.

Two cases come to my mind in just the past week: One woman holding public office in one of the northern counties of the State, just as an experiment went out with a young teenager and gave him the names of magazines and said, "Go into about ten stores and just ask for the name of the magazine and

see if he has any reaction or what." It wasn't a question of picking them off the stand. It was going to the storekeeper and saying, "Do you have" - well, I guess we won't advertise these either here - "this and this and this magazine." In no case, did any storekeeper say, "No, you're too young, son. We don't sell this to teenagers." In no case was that done. And turning this thing around a little bit, I was in a store Saturday night - I go around to many stores - where the salesman was a 12-year old boy selling some of the dirtiest magazines you would want to see. This was in one of our other counties. So there are problems on both sides of the counter on teenagers becoming involved in this.

That is the body of what I would have to suggest - the legislation and the other things I suggested. I should like to make a comment or two - I think I must - on the proposed legislation from the Council for Periodical Distributors, whose name has been changed and whose recent name I am not familiar with. It has slipped my mind. Mr. Haig represents them - it's the Association for Periodical Distribution or something of the sort. The legislation which was proposed by them, drawn up in the form of a model statute which they are working to pass in each State, I must express here publicly my absolute opposition to anything of the sort. Number 1, the best legal authorities that I can find around the State believe that it would be declared unconstitutional, partially on the basis of what Senator Connery mentioned this morning on extradition proceedings relative to obscenity cases. Number 2, there is a provision in this statute whereby all other local and state statutes would be revoked on this question, which means then that we

would perhaps have a statute declared invalid and moreover have everything else wiped away from the books, which we do not consider desirable.

I think those are the main comments I would like to make. If there are any questions, we will be happy to try to answer them.

MRS. HUGHES: Thank you, Father.

MRS. STILES: Father Hayes, do you recommend that we have a permanent committee?

FATHER HAYES: Yes, I would. I would like to see a permanent committee. I feel that the question is far too broad to be solved in a year or two or three years. I would recommend a permanent committee; I would recommend funds to carry on a job, part of the funds to be allotted to the publication each year in booklet form of your findings, and also for a full-time staff member to really feed information to the Committee. I certainly think it should be set up on a permanent basis until the problem is solved.

MRS. HUGHES: Father, I would like to ask you the same question I asked one of the other persons. In doing this work, have you felt that the type of material being sent out is getting steadily worse and that there is perhaps perversion coming into the so-called comic books?

FATHER HAYES: Yes, I feel that the material is getting worse. You can almost see it month by month. I have followed this thing for about eight years in the printed matter field - for three and a half years almost full time, day and night. I believe it is getting much worse and I believe perversion is coming into the picture. We didn't have it before. I find little objection to the comic books

strictly so-called. Since the organization of the Comic Book Code Association under Judge Murphy and his successor, with the self-censorship, self-regulation, there was a tremendous upswing in the moral tone of the comic books in 1956 and 1957, 1958, and I feel that is not the problem now, but it is certainly the problem in other magazines, the girly magazines, and the men's action magazines. It is getting much worse, and I might say there is not only the perversion but an association which we find rather disconcerting in connection with or a direct attack on Christian standards of morality in the form of sex tied up with religious aspects. I think something that might bear investigating too is the possible Communist influence in this field. I might call your attention to the current issue which appeared today of the American Mercury Magazine and the paperback book there mentioned written by a member of a Communist Cell; the article is by Chairman Walters of the Un-American Activities Committee.

I would like to say too that any of our files on our investigation, research, or whatever I know of the problem, we certainly would like to make available to you.

MRS. HUGHES: We appreciate your coming, Father, and I am sure we will take advantage of your offer to make use of your files, because we realize you have made quite a study of this. Thank you.

I will call Miss Hogan.

A N N A B. H O G A N: Madam Chairlady and members of the Committee, I don't have a prepared script. As a matter of fact, I wasn't sure I could get my case adjourned to get here this morning, but I did. I did make

a few notes as I listened to the other speakers.

First of all, I will introduce myself. I am Anna B. Hogan and I am Chairman of the Committee on Decency of St. Aedan's Church, and that has been in existence for seven years. I am Chairman for the Central Committee of the Legion of Decency for the Archdiocese of Newark, and I am a speaker on the roster of the Legion of Decency for the Diocese of Newark - that is Father Hayes' outfit so to speak.

First of all, I think I would like to compliment the Committee and the drafter of the bill and those who have been attempting to have it go across because certainly it is a great necessity, and the fact that you are having difficulty with it and difficulty in defining the word "obscenity", I think you should be cheered and perhaps your fears alleviated if you looked back a little bit in history and think of the fight they had for the pure food and drugs, and those are only substances that are going into the body. Now we've got substances that are going into the minds of the children and the adults. Perhaps it's one of the answers to why we have, I believe, - the last figures I read; maybe they have increased now - some 385,000 children, not retarded but in the insane asylum, in the United States. I haven't the slightest doubt and I think both the psychologists and psychiatrists would agree that the reason for it is that those children have had their emotions excited at the wrong time, in the wrong place, and by the wrong material, and that wrong material is the literature. Of course, we have stuff that they have been reading and the comics. They tell you that the comics are

pure. Well, I don't know. I think our parish down there in Hudson is about as typical as any, and we gathered up some and if that's pure and harmless, I don't know. I recall one offhand that showed a boy of about 10 or 12 and he was giving himself the needle in the arm, and the caption was, "I must tell mom and dad what a lift this juice gives you." Then we wonder why we have children who are narcotic users. And that was right on the counter.

Now, of course, we may differ on what the meaning of obscenity is, but I think it goes back to the same question. There was a time when they debated on what is poison in a food; what percentage made it legal, and what percentage entitled it to legislation against it. Well, they worked it out and now they do have those on the books. I think the fact that the people are aroused, the public is aroused, and they have traced the reason for the wild children of today-- You can't call them anything else. You have children of eight, nine or ten - not to say anything of the teens - committing crimes that you would be made ill with if they were committed by oldsters. They don't get it from the homes; they are not born depraved, but certain material is coming into their hands. But, of course, you know that. I mean, that would be like the preacher preaching to the people who come to church. But the thing is, what's being done about it? I thought again it might be of some encouragement to you to know that seven years ago we started at St. Aedan's; I think we were the second parish in Hudson County to inaugurate a decency committee. The first one was St. Nicholas under Father Bell. Ours was under Father VanWede down at St. Aedan's and we spread out. Then under Father Hayes and his Legion of

Decency, we were able to organize a Decency Committee including nearly every church in Jersey City and in Hudson County. Now that has gone on in the various counties, and the PTA's are getting into it now and requests for speakers are coming from there.. The mothers, the fathers, the single people, the teachers who have children under them, they will all cry out, "Come and speak to us; come and tell us." We know now where this poison is coming from; we know why the children are acting as they are; we see what they are reading; we have taken picture cards away from them; they look like little innocent playing cards, and on the back of the playing cards are these scenes of immorality, not even normal ones. Those are passed out among the children. As Father Hayes said, it's getting worse. Well, a thing always gets worse before it's cured. It's like when the rat is on the run, he will turn around to fight. I say that those who are putting out this lascivious matter are turning around to fight because they know that committees such as yours are doing something about it.

We down in the parishes and down in the churches and down in the PTA's and down in the various clubs can arouse public opinion, and the people, once aroused, will demand legislation. And I say in regard to your bill, you don't have to ask for support; they will come and demand support. The mechanics of how you are going to get it down to the norm where they can't knock it out in the upper courts or down in Washington where they have elastic consciences and elastic methods of stretching a word and diagnosing a word and trying not to offend anybody and trying to be modernistic by being so liberal that they lose themselves in the middle of the

elasticity - we don't want that. We have children's minds to think of. Suppose the food and drug law was as elastic as that; we would all be dead from poisoning, and our children will be dead from obscenity if we don't put some more elasticity back into the Supreme Court and those who pass upon it, and the only way you can do it is by putting in legislation here and putting teeth into it. Sure, It's hard. It's like the woman with a poor figure. She goes into a store to get a dress and nothing fits her, so she goes to an average dressmaker and she can't fit her either, but when she goes to a superb dressmaker she fits her. Well, that's the way of drawing your bills. It's not easy when you've got a hard subject to fit, but you trim it, you cut it, and at last you get the perfect bill with the perfect teeth. I know you'll have it and we'll help you to do it.

Thank you.

MRS. HUGHES: Thank you, Miss Hogan. I hope the public will be as enthusiastic as you are when we, with God's help, get a bill that may be effective.

May I ask you one question, please? In all of these activities in which you have been interested, have you felt that the parent could have done a better job in seeing what material their own children were buying?

MISS HOGAN: You'd be surprised at the lack of awareness, but once aroused you have tigers. The fathers are good, but I say of the mothers - and I haven't had that privilege myself but I do say it from watching them and, after all, I am a woman and the maternal instinct is there whether it ever gets the chance to operate or not - I say this: Just

as you may have seen in a newspaper not too long ago a notice where a mother jumped into a pit where there were copperhead snakes to save her baby, and you have seen it in women who have taken arm in arm to hold off heavy traffic, demanding that a light be put there. Well, women certainly will go the limit for their children and, of course, the fathers will do the same.

Thank you.

MRS. HUGHES: Detective Mognusson, please.

A R T H U R W . M O G N U S S O N: My name is Arthur W, Mognusson and I am a representative of the Essex County Sheriff's Office.

Madam Chairman, members of the Committee: Of course, just about everything that could be said so far as the books and the effective material has already been said. I would just like to read into the record something that I've read in private before the Committee and have it made part of the record.

First, I'd like to say that while the battle against obscenity in the past several years has been principally settled in the courts and again will be in future years, the most significant and by far the more important part of the fight at the moment is the presently convening state legislative bodies throughout the nation. Powerful lobbies are attempting to influence legislators in order to get new laws which would do away with all other legislation against obscenity and which would then give those seeking to control the problem the weakest and most impractical type of enforcement tool. Accordingly, it is most important that each member of every state legislative body meeting in 1961 be

made aware of the drive for weak and ineffective legislation as well as recommended model legislation.

An injunctive type law or one which calls for judicial determination is a bad law. Such laws are proposed to control obscenity and pornography in mass media and are shams and frauds. There are no successful precedents for this type of relief. The several states that have this type of legislation already in existence have found it to be impractical and unworkable, regardless of the clever propaganda to the contrary. A most cursory glance at newsstands, etc., in the area where this type of legislation has been enacted and been used as a tool to control obscenity will present influential evidence, irrefutable evidence, of its impracticality. In specific terms, this type of legislation reduces what has always been recognized as a crime from a criminal to a civil offense rather than permit the attack by law enforcement against the offender, the individual citizen perpetrating the crime. Enforcement is directed against the material itself and obviously the objects of enforcement action are multiplied by the thousands. A retailer selling, let's say, 500 titles and attacked on 10 could simply let the court system - the prosecutors, the judges, etc., - spin its wheels in a time-consuming effort for final determination of the nature of one item while he picks up another title and goes about his business, caring little for the final outcome of the original action, expecting that it was bogging down enforcement in hopeless morass.

Even though the statute would provide for the controversy to be promptly brought to issue, any practicing

attorney can tell you that the delay in obtaining a final result in this type of proceeding is of an undetermined origin. It should further be noted that since this type of law for the purpose of controlling obscenity is bad or defective in its essence, any modification or qualification thereof could not possibly give the desired results of eliminating the problem.

It is our opinion that there is no need for lengthy, wordy laws encircling the entire area of obscenity with high sounding phrases and prohibitions but actually accomplishing nothing. Such laws are open to sharp-shooting defense counsel, as in court proceedings they probe every technical defect and loophole that can be found. A bare statement making the offense a crime and the criminal perpetrating the crime subject to fine and imprisonment is, in our opinion, the best weapon to aid law enforcement and prosecuting officials to control obscenity.

One of the prime reasons that our beloved America, especially in its adolescent generation, suffers from an inundation of filth is that when the laws governing obscenity were called upon within the last five, or possibly ten years to meet a mass media, they, the laws on the books, were found to be archaic in language and technically imperfect, dating back in most instances to the late 1800's. The courts ~~faced~~ faced with the present-day arguments regarding the first and fourteenth amendments decided against most of these legislative enactments but not against the ability of the State or the community to control obscenity. Therefore, it has remained for the people to wait until the courts had clearly defined

the area in which legislative bodies could act before proper tools were drawn for enforcement against the crime. Such court decisions in Smith and Roth have now been forthcoming. Quite a bit more will be said on the subject in the 1961 session of the Supreme Court. However, the basic pattern is quite clear and pending amplification by the courts of how much further states and communities may go in controlling the problem, the best procedure to take is the one, statutorially speaking, that we have suggested.

I would like to say that presently and today there has been an offer by a person who testified here for an injunction type of law, coupled with our existing statute, to make it more effective. There is nothing wrong with incorporating a type of injunctive procedure but not to eliminate the body and the soundness of the statute as it now stands. Our statute was under attack as an incident of two arrests we made in Essex County, two indictments. The state statute was attacked by the defense attorneys on the ground that the statute was unconstitutional and that it did not spell out knowledge on the part of those who were selling it. However, the Supreme Court in this State in June, as you heard testified before, has held that our statute is constitutional. However, there are a lot of appeals going on and I believe they will go right to the Supreme Court without just cause purpose instead of having in the statute "anyone who knowingly or with knowledge or awareness sells this type of material."

These are all legal points, but we have particularly been successful in enforcing the statute as it now stands. There is a great need throughout the State for uniform action

by the law enforcement agencies, and a case in point again is the so-called book that we have been discussing. Many prosecutors and various law enforcement agents throughout the State have in some cases banned the book. Others, and properly so - not banning but have properly made arrests and seized the book as incident to an arrest. This is legal under our Constitution.

In a case in Essex County that particular book was taken and purchased without any fanfare by the Prosecutor of the County and submitted to a grand jury which is now sitting at this time. Whatever determination is made on the book, it will be forthcoming. My personal opinion is that it is going to strike a sharp blow at the whole thing that we are now discussing here, because I feel as a result of my limited experience that this book will be declared legally not obscene and indecent by the United States Supreme Court. Even though it may not appeal to the prurient interest, it does contain vulgar, indecent, crude, uncouth language and it certainly has erotic allurements. In my opinion, I believe the Supreme Court will rule, as they did in the Lady Chatterley case, that this is not obscenity and that the author of this book did not write it to appeal to the prurient interest. This is where the definition or the breakdown comes in between what is objectionable and what is obscene and indecent.

The citizens groups are very effective, because a thing may be classified as members of the literati may say it has merit and worth and it may be allowed to be sold in this country. The citizens groups can solicit aid by asking store-

keepers not to sell it or not to handle it, as this is objectionable, highly objectionable. And while we may feel individually against the thing, we must abide by the law which is the thing we are guided by. Legally, we can take on much of the other material that is in the State through the enforcement of our particular statutes.

I will try now to jump to a problem here, and many of these things have been answered as we went along, but I would like to mention just one thing. The testimony that this Committee has heard is that the retailer says that he can do nothing about the problem; the local distributors says he can do nothing about the problem, with the exception of this particular case here in Mercer County where you do have what seems to be a very practical man who has a distributing business in magazines and who is cooperating with law enforcement. This is very good and effective, but we are encroaching on a very dangerous area, because we in law enforcement and anyone who is under the statutes of this State a law enforcement officer cannot ban a publication. There can be no prior restraint on any book or magazine or anything else that is put out in the State, and only by acting through a complaint and arrest and indictment and trial by jury can we attack this thing. The law is there now and it is effective. You are in a position now, after you sift through this volume of material that you have accumulated, to make the law stronger and more effective.

Again, not to get off the track, the local wholesaler in most cases says that he can do nothing about it. The

national distributor says well, he can't do anything about it because the publisher is the one who does it, and so the ball goes. So they are saying in effect to you right here and they have made an open commitment that we just cannot do anything about it. Well, we do have to do something about it to help. There are some who appeared here under the guise of cooperation and assistance - and of course it's not for me to challenge the people who spoke today, but there are cases of storekeepers and people who represent associations who are not of the caliber of those who want to help and cooperate in this type of thing.

I would like to offer to this Committee this sort of battered and torn copy of an article that appeared by the Newsdealers' Legal Defense Fund on January 4, 1960. This was after the first series of raids was staged in Essex County, and I would just like to read briefly what it says:

(Reading) "This can happen to you. You could be raided, searched, fingerprinted, mugged for the Rogue's gallery, etc. This has happened to 2 other men...You may be one who has said, 'What good is the Association? What have they ever done? Here is proof - positive proof - that we are doing something now. We are going to fight, and fight hard, to convince the public, the law enforcement officers, and all other groups concerned that: We are honest, legitimate storekeepers; that we buy, pay for and sell legitimate merchandise. 2. We do not and will not, to the best of our knowledge, sell any publication that is indecent, objectionable or called 'smut.' 3. That we are at the mercy of the distributor as to what publications are shipped to us. 4. That we will no longer stand for the 'raid and arrest' technique. 5. That we are tired of the constant,

regular pressure and boycotting by various groups set up to dictate what the public should and should not read. 6. That we as loyal tax-paying American citizens stand on our rights to conduct our business in an honest lawful manner."

And on the end of their brochure, they say: "Here's what the association is doing: We have hired a top notch lawyer," whose name I will omit, "to defend our members and fight this to the finish. The American Civil Liberties Union, and lawyers for the pocketbook publishers and magazine publishers are backing up our case. This costs money. The big boys are putting up their share. We have to do ours now. Mail your check today for \$5, \$10, \$50, whatever you can afford. Do it now in the enclosed envelope. Make check payable to Newsdealers' Legal Defense Fund." This is hardly an indication of what some people might say is an area of co-operation.

Anything further I might say would only be reiterating what others have said. I feel that the Committee might have some questions that I might be able to answer that might shed new light on this subject.

MRS. STILES: Mr. Mognusson, I know you have worked very hard in Essex County on this problem and I would like to ask you how you feel or what are your personal thoughts on the recommendations that Judge Rafferty offered to us, especially as to the part where an officer would not be liable for suit after a party is arrested, etc.

MR. MOGNUSSON: Well, this is good and it's bad, because again I must go back to this area. It's all right to have that in legislation, but if you give a carte blanche.O.K.

for a law enforcement action there are many cases where it will be abused, and there is no question about that. This is an area of specialization in police work, the same as it is with narcotics, with homicide, with any particular type of law enforcement; this is a specialization, and I might say even more so, because we are dealing with the principles and the values of freedom of the press, and we can only, by using an intelligent approach and using the laws that we have available, and by having educated and well-informed law enforcement agents to carry on their phase of the program, be able to achieve the desired result. I would not recommend a carte blanche O.K. that there will be no responsibility or liability on the part of the policemen, because you are creating then a dangerous thing and many things could develop out of it. My opinion is that those who are set up and assigned to this work in the various counties to make an extensive study can approach this thing in a very intelligent manner, and in most cases where you want to be free of any liability whatsoever there is nothing to stop any police officer in this State today from going into any store in his community and purchasing maybe 10, 15 or 20 of these magazines and, with his preparation, submit them directly to a grand jury, which involves no liability on his part because the character of the books will be determined by a grand jury; if there is an indictment there will be a trial by jury.

I am not an attorney. I am only speaking on this because of the fact that I have been working in this field for the past two and a half years almost exclusively and these are my own personal feelings on the matter.

MRS. STILES: Well, that's why I asked you, because I know you have been working with it for a long while.

MRS. HUGHES: We are back to Judge Rafferty's draft proposal, and I think it is fortunate that we do have something like this to keep referring to, because we don't have a specific bill.

Senator Connery raised the question this morning about the possibility of a jury in one county bringing in one determination and a jury in another county bringing in something other than that. What is your opinion on that?

MR. MOGNISSON: It could happen but I would say that the chances are slim. I think throughout the entire State we are pretty uniform in our thinking and what not, and that a good uniform law would be applicable in every county. As an example, if the law was set up and there was an indictment in a certain county, well we would still be guided by that particular law, but I think that is rare because there are quite a few counties that are heavily populated where you might have, say, a lowering of the community standards because of its metropolitan flavor. Indictments have been returned on this material in Passaic County, Bergen County, Hudson County, Essex County. I don't know particularly about your own county, but there has been a great deal done and it is a pretty uniform thing and one strong state law - as I say, we do have an effective law now; I don't say there is anything wrong with it, but it could be strengthened and it could include, say, the definition of obscenity and then the test as it has been laid down by the U. S. Court in the Roth case.

MRS. HUGHES: There was one other thing: The speedy determination of the matter, which was suggested today. As a law enforcement officer, how do you feel about it?

MR. MOGNISSON: It's impossible today. Our court calendars are so jam packed with cases. It is in your papers every day. The only way to approach these things is, we must have and we must allow the latitude for an injunction procedure. This is all well and good but I don't think it is possible that this can happen, because some of our cases now, since the time of their indictment, it is now two years later and they haven't come to trial and not through any ineffectiveness on the part of the Prosecutor but on the part of the people who represent these publishers and distributors who have constantly appealed and attacked the laws. Now they have the privilege and the right to appeal directly to the Supreme Court of the United States, not in a particular matter in Arlington but in another county. And it's delays all the time. There is a constant delay.

I might say, and I think you were at the commission meeting when a member for the magazines said to the commission, "Well, why don't we have the Sheriff's Office not make any more raids and arrests until we see how these cases come out?" But they will not be that flexible themselves and say, "Well, since these magazines have been indicted by a grand jury, we will not send them or sell them or distribute them in the county." Well, I have personally gone to places where the people have been indicted and find the very same titled magazines back on the racks, the same type of format. This is no deterrent.

MRS. HUGHES: Thank you very much. We appreciate

your coming, Detective.

Rev. Samuel Jeanes.

REV. S A M U E L A. J E A N E S: Madam Chairman and members of the Commission: I am Samuel A. Jeanes of Merchantville, representing the New Jersey Council of Churches and Chairman of their Legislative Committee.

The New Jersey Council of Churches has 15 state or regional denominational groups in its membership, including approximately 2,138 local churches. Might I say that even though I am the only representative here today for that group, that does not minimize the interest of the Council of Churches in this problem that is before us.

I want to say a word of personal appreciation for the contribution of Judge Rafferty and also the spokesmen for the Legion of Decency, Msgr. McWilliams and Father Hayes. I think this is a very serious problem that confronts us here in the State of New Jersey, as well as in our entire nation, and one that challenges the best thinking and most courageous action of which we are capable. It seems to me that all right thinking people should do everything that they can to cope with this problem.

My mind goes back to that French philosopher who came to our shores some years ago. He visited the various areas of our life and had one great thought in mind and that is, what makes America great? And his conclusion was that America is great because America is good. And then he added, "If America ceases to be good, America will cease to be great."

It seems to me that there are forces, conscious or unconscious, that are working to undermine the goodness of

our people, and these are serious days in which perhaps the basic goodness of our people - spiritual integrity, morality - will serve us in better stead than all of the stockpile of nuclear weapons that we may accumulate.

We do not have any specific legislation to recommend to you; consequently, our remarks will be general, but the burden of them is that we believe that some action by the Legislature is necessary to solve this problem.

The Legislative Principles of the New Jersey Council of Churches state regarding obscene literature, "We favor legislation that would make illegal the publication, distribution or sale of indecent and/or obscene literature or material to the youth of our State. We believe that such curtailment does in no sense violate our historic principle of freedom of the press or freedom of speech."

Former Postmaster General Summerfield has estimated what he termed the "filth business" as a \$500,000,000 operation. Now if that represents only 2 per cent, then this book business is an astronomical thing. Such a lucrative business, we are sure, will fight to maintain its profitable existence while it continues to gnaw at the fibre of decency in our society.

There are legal resources whereby some pornography can be dealt with. There are also some works of social value, non-fictional in nature and not readily available to the general public and its youth, which are constitutionally protected. However, between these two groups there is what has been termed as a "range of calculated salaciousness" skirting the edges of the law. This is the material which seems to be creating many problems in the communities of our State, particularly as it

finds its way into the hands of our youth.

Now, I am not going to read this statement of Justice Brennan's. You probably know it by heart by this time, so I'll pass right over that.

But we would commend the Legislature for passing a bill in 1960 which increased the penalty for the violation of the so-called "tie-in-sales" law. That may not have solved everything but at least it was a step in the right direction.

We believe that some legislation is needed to control the publication, distribution or sale of indecent or obscene literature or material to our youth. Each year we have asked for the passage of a bill introduced by Mr. Musto, Miss Brown and Mrs. Hughes which would make the "exposure to public view of book or magazine covers of an immoral or indecent nature a disorderly person's offense." Some uniform state law is needed to solve this problem. Civic, religious and educational groups have organized on local levels to cope with this problem. Their motives are sincere and commendable but this task should not be left in the hands of any civic group. There must be a law which will be enforced by the properly constituted authorities. However, might I add that I think these groups have a continuing function to stir the courageous action of their members and of the total citizenry to file complaints before the proper parties. Too often after a law is passed and is on the books, then the public interest begins to lag. Certainly these groups can continue to do a wonderful work in this field.

We further believe that any legislation in this field should include a protective clause for serious scientific works as well as classic works of art which have come from other ages where the customary limits of candor were different from our own. The reason I say that is because many times opponents of this type of legislation will even bring out a copy of the bible and they will say, "There are some things in this book which should not be read by children," and consequently they endeavor to cast a shadow upon the entire attempt to clean up our publications by bringing out something which we all respect. And that's the reason we add this particular statement.

We recognize that this is a dangerous area in which to work. The question of individual rights is always present. However, together we are charged with the responsibility for the good of society as a whole. We must not allow the purveyors of filth to make further destructive inroads upon the moral fibre of society under the cloak of individual freedom..

We assure you that our churches will continue to work to lift the standards of society by urging the reading of good literature and by encouraging worthwhile reading habits for our youth during their formative years. There is, however, an assistance which can come from you and the Legislature which we believe is long overdue.

MRS. HUGHES: Thank you, Rev. Jeanes.

I would like to ask you the question I asked someone else as to the parents' responsibility in this field. Have you met enough of that?

MR. JEANES: I am sure that the parents can do a

great deal of good in endeavoring to lift the sights of their young people. However, we must also recognize that there are many hours when young people and boys and girls are not under the surveillance, if that's the right word to use, of their parents, and there are many things that can be brought to their attention which the parents may not know about.

MRS. HUGHES: Thank you very much.

Dr. Matthew McCue, please.

D R. M A T T H E W C. M c C U E: Madam Chairman and members of the Committee, I am Matthew C. McCue of Elizabeth, New Jersey, Chairman of the Citizens Cooperative for Decent Literature in Eastern Union County, a non-sectarian organization.

There is very little, after being here since ten o'clock, that I can add except to cheer them on and let everyone know that we of the Citizens' Cooperative for Decent Literature in Union County agree wholeheartedly with all the speakers in the need for a law which can be uniformly enacted throughout the State.

I am not going to go into any of the problems of what we have run into because all this has been hashed over before, and anything that I say will be repetitious. However, I do want to put on the record that we as a group have had a unique experience in so far as we have attacked this problem in an entirely different way. We have asked for and received from different organizations money to run a monthly ad in the Elizabeth Daily Journal, which is now the Daily Journal, and in this ad, which we have paid for ourselves, we have listed the names of participating stores, storekeepers

who in Eastern Union County - and we used Eastern Union County because the Journal was the paper of choice in that area - had pledged themselves to keep their shelves and racks clean of the obscene, indecent literature which, as you all know, is found throughout not only New Jersey but the whole United States. And over and above this ad which we put in monthly, we had a message. We quoted from J. Edgar Hoover, we quoted from different authorities, and we try to run a box score each month as to how many new stores we could add to the list, and from March of 1960 to June of 1961 we grew in number from 88 to 155. And this has all been done, unfortunately, without the aid of the law enforcement bodies on our side.

We have been before the Grand Jury; we have shown magazines which we considered obscene, which were called unindictable. And so the problem I bring before you today and to put in the record is that the fight has not been an easy one. It is continuing on only because the many men - two have spoken already here today before me - who go out on their spare time - there is a Mr. Elmer F. Collins with me today who is not going to talk, but his name should go in the record. He is in charge of our Watchdog Committee. I have heard, as I sat back there, distributors say how they want to lick the problem. I heard introduced three members from Union County Newsdealers Distributors whom I have yet to meet. In a year and a half with my name on the front page and our program going on, we hope, full blast, not one member of these organizations has called us up to even have a meeting. Maybe it is our fault that we didn't call them in, but we did invite in the beginning to our general group organization these

men to attend. One lawyer of theirs did appear and he had no statement to make.

To bring back the issue at hand, some groups throughout the State, particularly here as I heard today in Trenton, seem to be getting along on sweetness and light where everything is hunky-dory between the publisher, the police, the people, and I wish I could say the same thing held true in our county. And so I come here today to bring to light the problems as they exist to us and the fight we have on our hands. The storekeepers themselves tell us many things that you have heard before. We can refute them in so far as I must admit that of the 155 stores there have been no retributions, no tie-in sales, nothing that could cause alarm to the Prosecutor's Office. These stores when they did sign with us have had no complaints, and we use this factor as a means of trying to get other storekeepers on our list. Originally, a year ago, some were afraid to go on for fear that they would not receive the proper magazines. There are roughly 400 distributors in Eastern Union County; we have about one-third of them on our list, and I will again repeat, as we do to the new members we try to get on, they have received nothing in the way of retributions from the news-dealers. We, therefore, figure that we can go on with this problem if we could get the backing of the community at large and particularly a law with teeth in it. We also try to educate the people by speaking at meetings and, after each talk, we distribute magazines and show the public, particularly the parents there, what can be bought by their child at the local store and, without exception, the people are shocked. And we always bring out the fact that these are magazines that were

brought before the Grand Jury and were non-indictable.

Just last night, speaking to a group of mothers, they wanted to set out on a march to the center of Roselle with placards. They were shocked beyond reproach at what their child could buy. Unfortunately, the good people do not scan through these magazines; there is apathy, of course, but there is also ignorance. And so not only do we try to clean up the stands, but we try to educate the people. Shocking - maybe, yes. But we tell them this: If you don't know what is between those covers, the children do.

And so, once again, I want to thank the Committee here for the privilege of coming down. We will continue and, as the gentleman ahead of me said, we have an obligation, even if the law does exist, to keep the embers going, because we are all human and generally, after the first big surge, it starts to subside. And this is a problem which can be let die. I know for a fact and I have been told by different storekeepers that they are not bothering with you people. They said, "Let them burn themselves out." Groups such as yours start all the time and then they fade away. So with God's help we will not fade away, but we need the help of the State Legislature, and the fact that I'm even here today shows that something is being done and will be done.

Thank you very much.

MRS. HUGHES: Thank you, Doctor. We appreciate your coming very much.

Is there a Francis Burk here? (No response) Is James - it looks like Vemalelis. Maybe I can't decipher it too well. (No response). Bud Parker? (No response) John Banyan, Under-sheriff? (Present, but did not speak.) Nicholas Slattery? (No

response).

Well, that is the list of persons we have. A Miss Helen Payne was here this morning representing the American Association of University Women, but she was not able to return this afternoon. So if she sends us a statement, we will incorporate it in the report.

H. Douglas Stine, Prosecutor of Union County, sent a report. He was not able to appear. That, too, will be incorporated. And Prosecutor Repetto of Atlantic County was not able to attend, but if he sends a statement, that too will be incorporated.

I should like you to know that all of you who appeared here today will be forwarded a copy of this public hearing when it is finished. We appreciate your coming enormously, because it has given us a great deal of thought, but above all it has given us courage to go on with the enormous task which we have before us, because we realize that that is precisely what it is.

We have here a statement, too, from the New Jersey State Patrolmen's Benevolent Association. They were not able to appear but they have come to some of our private hearings and this is a statement from James Vigilante which will also appear in the record.

JUDGE RAFFERTY: May I have a couple of moments, please?

MRS. HUGHES: Certainly.

JUDGE RAFFERTY: I am obliged to ask for this. I opened the proceedings this morning and I will probably close them. But I told Mr. Haig that I intended to answer this so-called model statute which he has suggested, and I told him

some of my criticisms of it, but he said he could not stay. I know that you would like not to stay, now that the day is over, but in order that the record may be straight, Mr. Haig said there is very much in common in my proposal and his. I would like to say that the only thing I have seen in common is that he uses the word "obscene" and I also use it. For instance, Section 9b: This in my opinion is the boldest attempt I have ever seen to repeal the constitutional provision for trial by jury by statute. "Every person appearing and answering shall be entitled upon request to a trial of any issue with an advisory jury." Now, I say to you respectfully, an advisory jury is no jury at all. The judge may take their judgment or he may reject it, and hence it is not a jury in the accepted sense. Further, "the court with the consent of all parties may order a trial of any issue with a jury whose verdict shall have the same effect as in cases at law." Under this proposal, if there were five parties, and four of them wanted a trial by jury, which they are constitutionally entitled to, and one objected, they could not have a trial by jury. And I say to you that in my opinion, this would be fatal to any proposal, even assuming there is merit throughout the rest of the proposals. Thank you very much.

(Discussion off the record)

MRS. HUGHES: Is there anyone else who wishes to appear? If not, thank you for coming, and this public hearing is now declared adjourned.

(HEARING CONCLUDED)

MEMORANDUM OF PROSECUTOR STINE ON OBSCENE
LITERATURE PROBLEM

The following comments are made by the Union County Prosecutor on the difficult, complex problem of obscene literature in order to try to inform interested citizens and law enforcement officers in the county.

1. How should literature be evaluated to determine if it is obscene?

Items should only be referred to the Prosecutor for Grand Jury consideration if the standards established in the case of *Roth v. U.S.* (354 U.S. 476) are met.

Material is obscene if it has a substantial tendency to deprave or corrupt its readers by inciting lascivious thoughts or arousing lustful desires. It must deal with sex in a manner appealing to prurient interest.

If the above general definition applies and the following four questions can be answered affirmatively in weighing the material in question, then the item should be forwarded to the County Prosecutor for presentation to the Grand Jury:

a. Does the literature lack the slightest redeeming social importance? Note here that portrayal of sex which is artistic, literary, educational or humorous, is protected. Sex and obscenity are not synonymous.

b. Has the material been tested according to the taste of the average person in the community? It may not be tested by a prude or a sophisticated worldly-wise person.

c. Has it been weighed according to modern community standards and public taste? Victorian standards may not be applied.

d. Is the dominant theme of the magazine or literature obscene when taken as a whole? Isolated parts which are repulsive cannot be the basis of a criminal charge.

The office of the Union County Prosecutor is always open to review any item of literature submitted to it which has been specifically graded according to the above tests. Any one interested should forward the material in question with a brief one page memorandum pointing out why it is obscene in the writer's opinion.

2. Should a psychiatrist be used to prove that literature is obscene?

The Prosecutor's office must rely upon the expert opinion of a psychiatrist to properly weigh the above mentioned tests and explain to the jury how the particular literature in question would affect the normal average person. The Prosecutor should have the advice of a psychiatrist in the first instance before any indictment is sought. This is according to the best practice in the trial of such cases.

3. What is the effect of Smith v. California (30 S.Ct. 215, U.S. Supreme Ct. 1959) and State of N.J. v. Hudson Co. News Co. and Milton Medwin, (35 N.J. 284, N.J. Supreme Ct. 1961) upon our obscene literature statute N.J.S. 2A:115-2?

The above statute makes it a crime to utter or expose to the view or hearing of another or to possess with intent to utter or expose to the view or hearing of another without any just cause any obscene or indecent book, publication, etc. The Smith case cited above held that a Los Angeles City Ordinance was unconstitutional since it did not require knowledge on the part of the defendant of the contents of the books he was

charged with possessing. The U.S. Supreme Court said that if such a defendant were criminally liable without knowledge of the contents of a book then he would tend to restrict the books he sells only to those he has inspected, thus restricting the public's access to reading matter.

This case appeared to make our Statute unconstitutional but our U.S. Supreme Court has just recently ruled that the language "without just cause" indicates that the legislature considered matters of knowledge and the court held that knowledge was therefore implied. The N.J. Supreme Court declared that the legislative draftsmanship was somewhat inartistic. This inartistic draftsmanship plus a refusal to spell out what obscene literature actually is has of course made it most difficult for law enforcement officers to interpret the law. If the legislature want to make an act criminal why not define it just as murder, robbery and other crimes are defined? The New Jersey Supreme Court made mention of the facts that our legislature has never attempted a definition of obscenity and that our courts have referred to the imprecise nature of the obscenity concept. The court said that it has been persuasively suggested that a bookseller could probably show an honest but mistaken belief that the known contents were not obscene as a defense.

Our court has declared that under the "without just cause" test the literature can be possessed legally for a purpose which can be shown is not related to any prurient interest. The decision went on to say that it was the term "obscene literature" which gave it the real trouble but it would not rule on it since it was not raised as an issue. Perhaps we should have a decision interpreting the term for us in the near future. In the meantime the court admits it is very difficult to determine on which side of the line some literature would fall.

4. General Comments:

a. The January Session of the 1956 Term Grand Jury and the May session of the 1956 Term Grand Jury returned indictments against 150 defendants, of which 135 were dismissed by the court. The remaining 15 pleaded non vult and promised to abide by a code of ethical conduct which was unenforceable. It is hoped that the forthcoming Grand Jury will not adopt such a wholesale approach where the quantity is high but the quality is low. Every Prosecutor is plagued with the problem of having too many weak indictments which clog up his calendar now.

b. The Grand Jury considered the obscene literature problem a year ago and refused to indict any dealers. A county detective checked 28 newsstands in 11 municipalities using a list of 40 magazines which were the subject of indictments in Essex County and Hudson County. He found only one of these 40 magazines on Union County newsstands. The Grand Jury considered this magazine and refused to indict. The charge has been made that other counties have cleaner newsstands. It appears that the reverse is true.

c. Dr. McCue of the Citizens' Cooperative for Decent Literature displayed items of literature which he believed to be obscene to the same Grand Jury but no indictments resulted.

d. Grand Jury members themselves were given the Roth Case definition of obscene literature and were asked to bring in any magazines purchased from newsstands in their communities for the Grand Jury to consider. No indictments resulted from this either.

e. Two distributors in the county testified that they receive the magazines in bulk from their wholesaler without being able to order what they want and they claimed they do not have the time to read several hundred magazines each month anyway to determine their contents. Furthermore, they say they wouldn't know what test they should apply to determine if any were obscene.

g. Two wholesalers in the county testified that they receive the magazines in bulk by way of interstate shipment in the mail. They take the position that the material must be O.K. because they are allowed through the mail by federal authorities.

h. It has been suggested that perhaps the legislature could establish a N.J. Obscene Literature Commission staffed by experts empowered to review publications every month and recommend to law enforcement authorities which ones were found to be obscene under the Roth case definition. The membership should be composed of at least one psychiatrist and one educator plus other qualified citizens. This would bring expert knowledge to bear on the problem, and result in uniform treatment throughout the 21 counties in the State.

This idea has not been acted upon. Such a commission would not have the power to censor but merely to make expert recommendations. Certainly, no Prosecutor has the time to review several hundred publications every month to determine whether each is obscene or not.

i. It has been suggested that Federal District Attorneys might take steps to enforce the federal statutes prohibiting

obscene literature by bringing action against those who print or publish the material in their jurisdiction. This would attack the problem at its source and prevent the magazines from being shipped out all over the United States.

j. All publications should be required by federal and state law to list the name and address of the publisher, editor and printer.

k. Our obscene literature law might be made more realistic which would make for better law enforcement if the American Law Institute recommendation were followed which suggests that we should only try to regulate magazines which have a tendency to create thoughts or desires which can be connected with possible overt criminal misbehavior. As it is now, a person can be subject to criminal penalty if he is charged with possession of a magazine under the terms of our N.J. Statute which it is alleged has caused a "lascivious thought" only and nothing more.

l. It is clear that a Prosecutor cannot draw up a list of magazines which must be removed from newsstands. Bantam Books v. Melko (25 N.J. Super. 292) was a warning to Prosecutors that they themselves were violating the law in doing this.

m. Here in Union County the Prosecutor's office has had no problem in obtaining indictments and convictions in cases involving pornographic literature. This is a relatively simple problem compared with obscene literature.

n. It is hoped that perhaps interested citizens such as the editor of the Daily Journal (Mr. Wylie) and Dr. McCue, of the Citizens Advisory Committee on Obscene Literature may be able to form a broad based committee of 7 or 9 interested and qualified people who might meet with the Prosecutor on the problem.

These people should come from different walks of life, different religious groups, from different parts of the county, and include perhaps at least one educator and one psychiatrist. This group could help the Prosecutor by educating the public on the legal definition of obscene literature so that we can get away from the frequent outcries against "smut and filth" in general and begin to meet the problem within the framework of the existing legal definition.

At the same time perhaps we can adopt a positive approach to the problem by encouraging teenagers and adults to read good books and emphasize the important responsibility that parents, churches, and schools have in this problem.

Beyond this, the Committee might use its good offices to persuade the Legislature, the Congress and Federal law enforcement authorities to take further action in the field as indicated above.

Dated: August 31, 1961

H. Douglas Stine

H. DOUGLAS STINE
Union County Prosecutor

New Jersey State Patrolmen's Benevolent Association, Inc.

Organized 1896



Membership Over 12,000

JAMES J. VIGILANTE
President

Office of the President
PARK SQUARE BUILDING
10 PARK PLACE
MORRISTOWN, N. J.



October 13, 1961

Mr. J. G. Deardorff, Secretary
Commission to Study Obscenity
Department of Education
State House Annex
Trenton, New Jersey

Dear Mr. Deardorff:-

On behalf of the New Jersey State P. B. A., I am in receipt of your Notice of a Hearing relating to the study of obscenity on October 17, 1961. While I cannot appear personally, the views of our organization are as set forth herein and I feel, in view of our group being primarily concerned with the enforcement and possible confiscation of obscene materials, that our view should be publicly recorded via this letter.

As is the usual practice of our members, whether municipal or county policemen, or Sheriff's officers, upon presentation to a member of a warrant, the member must seize and arrest the individual named therein. A recent decision of the United States Supreme Court in Marcus v. Property Search Warrants, 6 L. Ed. 2d 1127 (1961) has seriously limited the effect of such warrants, particularly those "upon information and belief" and the issuance of such warrants place an officer in a delicate position. Obviously an officer must carry out the warrant but at the same time if it is defective under the decision of the above case, the officer may be subjected to liability and personal expense. As such, any warrant issued to an officer of the law should conform at the minimum to the requirements of due process as expressed by the United States Supreme Court in the above case. Our present laws should be examined to make certain that they conform to such requirements.

In addition to the problem concerning a search warrant the more immediate and difficult problem concerns the crime of obscenity itself. As policemen, we must act against the commission of the crime. However, the crime of obscenity, being subjective, and subject to widely divergent views, prosecutors, juries and the public, the individual policeman is placed in a difficult position. Since no definitive expression or law exists as to "what is obscene" a police officer must be extremely cautious

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Mr. J. G. Deardorff

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in this field, recognizing at the same time that filthy materials as such must be curtailed and prosecuted. In your study it is our desire to obtain a concise expression from either the Legislature or the Courts as to "what is obscene". Without any meaningful definition or standard, enforcement of the law in this field is well-nigh impossible. Definitions of obscenity in the terms of "smut for smuts sake" or "filthy periodicals" mean nothing to anyone. While most of the public has no difficulty with so-called "hard core pornography" it is in the area between so-called hard core pornography and non-obscene materials that the trouble arises. So-called "girlie magazines" exist everywhere and are sold everywhere. Certainly it should not be incumbent upon a policeman to determine whether such periodicals are to be seized and the sellers arrested.

Further, a related problem is the constant cry of citizens, sometimes well taken, that discriminatory seizure and prosecutions are made in this field. Some newsstands are raided and others selling the same magazines or books are not. As law enforcement officers the law is to be uniformly and equally applied. Hence, if a certain publication is "obscene" all who sell it should be subject to arrest and not merely a few in isolated areas. It is our hope that standards be fixed in terms of meaning rather than in generalities.

As was stated in the United States Supreme Court case above referred to, problems are raised in the obscenity field which are not raised in other areas. A police officer may seize "gambling implements" and "intoxicating liquors" but the difficulty in the obscenity field is that the suppression of books or magazines raises a problem of freedom of speech and of the press which make our duties of enforcement additionally difficult. How can individual policeman on a beat determine that "X" magazine is or is not obscene? Obviously he cannot, nor can the prosecuting authorities or juries. While we do not wish to become engaged in any discussion of obscenity in its overall aspect we wish to point out that enforcement, our duty, is made extremely difficult by the indefinite nature of the crime itself. Without clarification enforcement is difficult or arbitrarily made. In any study of obscenity a paramount concern must be of the manner of enforcement to the policeman on the beat. If

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Mr. J. G. Deardorff

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the law is not made clear to him its enforcement suffers. However, in studying the crime of obscenity a prime concern of such Committee should be in the manner of its enforcement and meaning to a law enforcement officer and, of course, to the public.

On behalf of our organization we wish to thank you for your courtesy in extending an invitation to appear. At the same time we wish to impress upon your group the difficulty and seriousness of the crime to members of our group.

Yours truly,

James J. Vigilante
James J. Vigilante
President

JJV:dej

LEGISLATION PROPOSED BY WOMAN'S GRAND JURY ASSOCIATION
OF HUDSON COUNTY.

A B I L L

For an Act imposing restrictions on the dissemination to individuals under eighteen years of age of publications which are obscene for juveniles and providing a penalty for the violation thereof.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

1. The General Assembly of Illinois finds and
2 determines that the dissemination to juveniles by persons,
3 other than their parents, of publications which are obscene
4 for juveniles has an eroding effect on public morals, is a
5 contributing factor to juvenile crime, is an unwarranted and
6 unnecessary interference with the rights and obligations of
7 parents to train and educate their children, and is therefore
8 contrary to the public policy of this State.

Section 2. It shall be unlawful for any individual
2 knowingly to tender personally to any juvenile for examination
3 or for any person knowingly to disseminate to any juvenile,
4 any publication which is obscene for juveniles. For the pur-
5 pose of this Act, a publication shall be deemed to be obscene
6 for juveniles if, applying contemporary community standards,
7 the dominant theme of such publication, taken as a whole,
8 appeals to the prurient interest of the average seventeen
9 year old individual.

Section 3. It shall not constitute a violation of this
2 Act for a parent to tender for examination or disseminate
3 any publication to his own child or legal ward or to a juvenile
4 to whom he stands in loco parentis.

Section 4. For the purposes of this Act the follow-
2 ing terms have the following meanings:

3 (a) "Knowingly" means (1) having actual knowledge
4 of the content of the publication being disseminated or
5 tendered for examination, or having actual knowledge of

6 facts or circumstances sufficient to make a reasonable person
7 aware that such publication may be obscene for juveniles;
8 and (ii) having actual knowledge of the age of the individual
9 to whom the publication is being disseminated or having failed
10 to exercise reasonable care to determine the age of such
11 individual.

12 (b) "Disseminate" means sell, lend or give or cause to
13 be sold, lent or given.

14 (c) "Publication" means any reading or pictorial matter
15 or any combination of reading and pictorial matter

16 (d) "Person" means any individual, firm or corporation.

17 (e) "Juvenile" means any individual under the age of
18 eighteen years.

19 (f) "Parent" means natural parent, guardian or person
20 standing in loco parentis to a juvenile.

Section 5. Except as provided in Section 6 of this
2 Act, any person violating any provision of this Act shall
3 be guilty of a misdemeanor and upon conviction thereof

4 shall be fined not less than \$500 and not more than \$1,000
5 or be imprisoned in the County Jail for not more than one
6 year, or be both so fined and imprisoned.

Section 6. Any person who, after having been twice
2 convicted under this Act, violates any provision of this
3 Act shall be guilty of a felony and upon conviction there-
4 of shall be fined not less than \$1,000 and not more than
5 \$5,000 or be imprisoned in the State Penitentiary for not
6 less than one year and not more than five years, or be both
7 so fined and imprisoned.

Section 7. If any provision of this Act, or the
2 application of such provision to any person or circum-
3 stances, shall be held invalid, the remainder of this act,
4 and the application of such provision to persons or cir-
5 cumstances other than those as to which it shall have been
6 held invalid, shall not be affected thereby.

CITIZENS FOR DECENT LITERATURE

WESTFIELD, N.J.

October 16, 1961

The Honorable Mildred Barry Hughes
Chairman - New Jersey Commission to Study Obscenity
Trenton, New Jersey

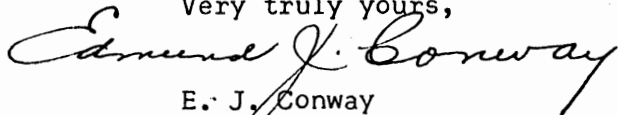
My dear Mrs. Hughes:

The Westfield Citizens for Decent Literature is just at the beginnings of its organization. Therefore, I cannot give a statement purporting to set forth the views of the group.

I would like, however, to state my personal views which are as follows:

1. Obscenity, in all its forms, is more widespread in the United States today than it has ever been before during my lifetime.
2. Obscenity is harmful spiritually, mentally and physically. It is an evil. It has no redeeming features. It is degrading us as individuals and as a nation.
3. I pray that all decent people, especially our legislators, courts, and police, will rise up in unity to combat the trend which has steadily worsened over the years.
4. May God grant you and your Commission the graces you need to carry out your mission in accordance with His will.

Very truly yours,



E. J. Conway
Chairman Pro Tem
Citizens for Decent Literature
47 Woodbrook Circle
Westfield, N.J.
AD 2-8633

THE INFLUENCE OF
ENTERTAINMENT AND
COMMUNICATIONS MEDIA

Much has been said as to the influence of entertainment and communications on moral behavior. Many law enforcement officials, psychiatrists, clergymen, parents and others are convinced that there is a strong harmful influence. Some, particularly in the magazine, book, movie, and TV industries, have stated that no such influence has ever been proven. Perhaps the following pages will throw some light on this matter.

LEGION OF DECENCY

OFFICE OF COMMUNICATIONS & ENTERTAINMENT
ARCHDIOCESE OF NEWARK
31 Clinton Street
Newark 2, N.J.

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JUDGE CHARLES L. GUERIN OF PHILADELPHIA:

"In the past our courts have been militant in protecting the rights of the minorities, and properly so. It is time that the courts become militant in protecting the rights of the majority and recognize these types of publications for what they are--immoral, lewd, and obscene."

Judge Guerin found magazine dealer Guy Fenton guilty of possessing and selling obscene publications. Police raided a magazine store owned by Fenton's parents after a fifteen year old boy told them that magazines he bought in the store incited him to commit criminal assault on a teenage girl. (Ref. 1)

- - -
HERBERT W. CASE, DETROIT POLICE INSPECTOR:

"I have yet to see a sex murder case in the history of the Detroit police department, but that I can show you obscene literature." (Ref. 2)

- - -
J. EDGAR HOOVER:

"...Obscene literature is spread across the land through films, decks of playing cards, photographs, comic books and other pornographic products...Obscenity is a seed bed for delinquency among juveniles and depravity among all individuals. Rape cases increased 10½% from 1957 to 1958. This truly shocking and shameful state of affairs is made even more deplorable by the knowledge that sex crimes and obscene and vulgar literature often go hand in hand." (Ref. 3)

- - -
NYLE M. JACKSON, EXECUTIVE ASSISTANT TO U.S. POSTMASTER, LOS ANGELES:

"...Consequences of the filth traffic already are terrible enough. In the 1958 fiscal year 14,000 complaints were made and arrests for obscenity increased 45%. The number of complaints had increased to more than 70,000 in the fiscal year 1959. It is largely because of this flood of pornographic material that one of every five boys in the U.S. between the ages of 10 and 17 has a court record." (Ref. 4)

- - -
GOODRICH C. SCHAUFFLER, MD.:

"Perhaps you and I laugh or turn away in disgust at the writhings of an Elvis Presley or the exaggerated posturings of the 'hot dames' on the covers of paperbacked books and in the movies, but to teenagers these things are sex-education." (Ref. 5)

- - -

MSGR. THOMAS FITZGERALD, EXECUTIVE SECRETARY OF
NATIONAL OFFICE FOR DECENT LITERATURE:

"Some paperback book publishers are turning out 'Textbooks' of juvenile crime and sex perversion" a House of Representatives sub-committee was told by Msgr. Fitzgerald. He made the charge as he threw his support behind a bill to set up a presidential commission to study the connection between pornography and sex crimes. Msgr. Fitzgerald said that "In his 12 years with the NODL he has observed a definite 'pattern' of declining standards among some sections of the paperback book industry...such publications have passed from the depiction of extramarital sex relations through the pornography of violence to their current rung on the ladder--detailed treatment of sex perversion. Moreover, since 1942 there has been a steady flow of paperback books dealing with techniques of juvenile crime and gang violence. The NODL reviews about 80 paperback books per month and finds about half of these unsuitable for children." (Ref 6)

CLYDE W. TAYLOR, EXECUTIVE SECRETARY OF PUBLIC AFFAIRS OF
NATIONAL ASSOCIATION OF EVANGELICALS:

"...Commission on social action is convinced that pornographic literature does contribute to juvenile delinquency and that it is one of the main factors that triggers emotionally warped individuals into committing many of the sex crimes reported throughout the Nation." (Ref 7)

NEW YORK STATE LEGISLATIVE COMMITTEE TO STUDY THE
PUBLICATION OF COMICS REPORTS:

"...this committee has frequently been presented with arguments to the effect that crime and horror comic books of every kind are but one of the many factors involved in juvenile delinquency. We concur. We do feel, however, that they are among the most important since they contribute directly to the lack of moral responsibility among the young without which we cannot hope for the preservation of decency." (Ref. 8)

EXECUTIVE DIRECTOR, PHILADELPHIA YOUTH STUDY CENTER:

"...analyzed the effects of pornography on youth and stated that there is no question that pictures and stories emphasizing sex, exert a strong influence on many adults and youth. The degree of negative impact of this material, depends on the type of background of the person." (Ref. 9)

DR. ARTHUR J. BRODERICK, SCIENTIST:

"The time required for psychoanalysis could be cut in half by showing patients powerful movies depicting their inner conflicts. Comic books, movies and TV all classify as fantasies, and people tend to choose their fantasies in the areas where they have problems. Movies of a pure theme such as fear, love, aggression or sadism, are chosen to fit the problem area of the person under analysis. They are also shown to others with the same problems not under analysis and the impact is observed.

(con't)

DR. ARTHUR J. BRODERICK (CON'T)

"It is quite fascinating. The whole thing depends on the person who is being studied remaining identified with the person in the film who is having the conflict.

"Without being aware of it the fantasy gets into their dreams, their social relations, their moods. But if the person is not in analysis it causes tremendous stress. Many get sick in bed with imaginary illness, or they get depressed. With youth it may cause delinquency, an acting out instead of the crossing out of psychoanalysis." (Ref 10)

CHARLES H. KEATING, JR., CHIEF COUNSEL,
CITIZENS FOR DECENT LITERATURE:

"Recently in Philadelphia, I believe it was, a young boy testified he had been exposed to a nudist magazine and it had so excited him it drove him to criminal assault...In spite of this and in spite of the evident community attitude against nudist magazines, which are said by their advocates to be in the nature of a religious or the advocacy of a healthful idea, this could not be so and this is not a valid argument for selling them, because if they sold them only to nudists or people in the cult, and if the prurient interest of most purchasers were disregarded or if these publications were not available to them, they would be out of business in a month." (Ref. 11)

SGT. JOHN BULLARO, DIRECTOR OF JUVENILE DIVISION
ELMHURST (ILL.) POLICE DEPARTMENT:

"...There is a direct relation between the removal of objectionable magazines from Elmhurst's newsstands and the city's recent decrease in juvenile sex offenses. In the year prior to May 1958 Elmhurst had a total of sixty reported cases of lewd telephone calls, lewd letters, and peeping Toms. Most of the juveniles apprehended were readers of smut magazines. On May 28, 1958, the city's magazine dealers, at the request of community leaders voluntarily banned thirty-eight of the most objectionable publications. Since then there have been reports of only four such offenses." (Ref. 12)

WILLIAM H. MOORING:

"...J. Edgar Hoover of the FBI in an appeal to Geoffrey Shurlock chief of the Hollywood's Movie Code, warns against an 'apparent trend in the motion picture field to glorify the gangster and elevate him as a false idol for American youths...Attorney General Edmund G. (Pat) Brown of California simultaneously reports on the findings of his Citizens' Advisory Committee on Crime Prevention. After a year's study this committee by 'general agreement' connects an increasing use of broken bottles, chains and razor blades by juvenile delinquents with certain TV programs some of which 'feature eight to fourteen crime films daily and even more on Saturday and Sunday...Crime, violence and illicit sex in movies and TV are not the sole cause of juvenile delinquency, but investigation has proved they are most potent contributions...We have laws to prevent liquor sellers from leading our youngsters into drunkenness. Why not have laws to control shows which lead them into crime?' (Ref. 13)

HON. KATHRYN E. GRANAHAN:

"...Our committee records contain substantial evidence tracing a major part of the rise in juvenile delinquency and even crimes of terrible violence, to thoughts and actions triggered by dirty and suggestive writings, pictures or movies. It is our hope by bringing these facts to the attention of state and city authorities and of civic groups, that we may help alert all right-thinking citizens to the very real danger in permitting the continued spread of pornography." (Ref. 14)

- - -

J. EDGAR HOOVER:

"What we do know is that an overwhelmingly large number of sex crimes is associated with pornography. We know that sex criminals read it, are clearly influenced by it...Sex crimes are on the rise...I believe pornography is a major cause of sex violence. I believe that if we can eliminate the distribution of such items among impressionable school-age children we shall greatly reduce our frightening sex-crime rate...It seems to me that the peddler who assaults our children's minds is as clearly a sexual offender as the man who molests a child's body...Sex mad magazines are creating criminals faster than jails can be built to house them." (Ref. 15)

- - -

JUDGE JACOB N. BRAUDE:

"Any parent who thinks that the violence, sadism and smut dealt out in some comic books and other 'more respectable' literature have little effect on children should sit in on some of my court sessions. The apologies offered by the publishers of this junk--that the 'crime-doesn't-pay' angle is always emphasized--is pure hokum. All the kids get out of it is the excitement and glory--and the conviction that they won't make the same mistakes the culprit did in the story. So-called sociological literature has made a considerable contribution, too, in the corrupting of young minds. I've had dozens of teenagers in court charged with having relations with 14 and 15 year old girls and many of them cited Dr. Kinsey as their authority and justification. I've had hundreds of others who got their blueprints for trouble-making from the detailed analysis of crime and sex appearing in current fiction and non-fiction. Parents and teachers should constantly be on the alert to know what young people are reading." (Ref. 16)

- - -

DR. BENJAMIN KARPMAN, CHIEF PSYCHOTHERAPIST FOR
ST. ELIZABETH'S HOSPITAL, WASHINGTON:

"There is very direct relationship between juvenile delinquency, sex life, and pornographic literature." (Ref. 17)

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SLAYERS 10 and 12 GOT IDEA FROM TV:

"Robert Smith 12 and his brother David 10, whose shooting spree left one man dead and two wounded told police that they got idea from watching television and movie crime stories." (Ref. 18)

- - -

DR. LOIS LUNDELL HIGGINS, DIRECTOR OF THE ILLINOIS CRIME
PREVENTION BUREAU:

"The racket (magazine) enjoys an estimated gross income of \$500 million a year. In its quest for riches, it creates in immature minds a distorted image of human relationships. It panders to perverts and sadists and educates potential deviates in the techniques of sadism and perversion. The large profits and small consequences of detection seem to be attracting the worst criminal elements." (Ref. 19)

DR. NICHOLAS G. FRIGNITO, CHIEF NEUROPSYCHIATRIST AND MEDICAL
DIRECTOR OF THE PHILADELPHIA MUNICIPAL COURT:

"Anti-social delinquent and criminal activity frequently result from sexual stimulation by pornography. This abnormal sexual stimulation creates such a demand for expression that gratification by vicarious means follows. Girls run away from their homes and become entangled in prostitution. Boys and young men who have difficulty resisting the undue sexual stimulation become sexually aggressive and generally incorrigible. The more vicious delinquent or psychopathic type may become an exhibitionist, a rapist, a sadist, a fetishist. He may commit such antisocial acts as arson, pyromania, kleptomania, which are often symbolic sexual acts.

"The Philadelphia municipal court has case histories in which sexual arousal from smutty books led to criminal behavior from vicious assaults to homicide. Some of these children did not transgress sexually until they read suggestive stories and viewed lewd pictures of licentious magazines. In several instances these children were very young, varying in age from 9 to 14 years. The filthy ideas implanted in their immature minds impelled them to crime.

"Sexual stimulation by printed material does not always lead to crime, but it is always an inducement to impurity and in the more suggestible individual leads to aberrant forms of sexual misconduct, incest, voycurism and narcissism.

"Our prisons, correctional institutions and mental hospitals are jammed with many of the unfortunates who were prey to pornography. Many may never recover their mental or physical health. Others may never have freedom.

"Pornography is an instrument for delinquency, it is an insidious threat to moral, mental and physical health. It debases the true meaning and function of sex, it leads to excessive eroticism, morbid preoccupation with sex, and it incites to immoral and antisocial activity.

"The purveyor of pornography is an immoral, corrupt, degenerate individual who completely disregards the harm he causes to public morality and decency. He is an antisocial, psychopathic criminal. The viciousness of his trade can be equaled to a pestilence." (Ref. 20)

CHAUNCEY D. LEAKE, OHIO STATE UNIVERSITY:

" One of the most unpleasant aspects of the current American scene is the large amount of lurid, sex-stimulating, and aesthetically and ethically-offensive reading material pushed and promoted in our public newsstands and drugstores. These patterned magazines and paperbooks are designed to attract the lonely, the dissatisfied, and the sexually curious. They have a peculiar fascination for teenagers and unfortunately for many adults.

"This kind of material is dangerous. It affects our moral character and strength. It undermines our sense of decency. It attacks our basic concepts of law and order and decency. The people who put out this sort of stuff are just as dangerous as the worst kind of Communist spies. They are really the equal of dope peddlers. The trash they do peddle is just as dangerous as dope, and can be just as morally undermining for our culture as excessive pushing of dope and the promotion of drug addiction. Let's get it off our newsstands and let's offer something from the richness of our literary heritage that is inspiring and that is stimulating toward decent and wholesome living." (Ref. 21)

- - -

GEORGE MATTHEW ADAMS:

"A man is himself plus the books that he reads.

"Tell me the name of the books a person reads and the doors to his mind immediately are opened wide. So much of each one of us is the books that we read.

"We suggest you consider this and then think of what constitutes the reading diet today--amorality, immorality, dirt for dirt's sake and perversion presented as normal and desirable." (Ref. 22)

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JOURNAL OF SOCIAL THERAPY:

"Reports on interview with 100 teenage inmates of Chicago's Cook County Jail, regarding their judgments as to the effects on their behavior of television, pornography and movies showed they play distinct role in the creation of anti-social behavior in susceptible teenagers." (Ref. 23)

- - -

SUPERIOR JUDGE JOHN A. HEWICKER:

"Some crimes are so revolting there is only one penalty--the death penalty." (Before him stood Harvey Glatman a Los Angeles television repairman who had confessed luring three young women into remote areas to take photographs, then raping and slowly strangling them...Glatman said he forced all three victims at gunpoint to be tied up for crime magazine pictures.) (Ref. 24)

- - -

GEORGE W. HENRY, M.D., FELLOW OF AMERICAN PSYCHIATRIC ASSOCIATION
AND PROFESSOR OF CLINICAL PSYCHIATRY AT CORNELL UNIVERSITY

"Children could be sexually perverted by looking at, by studying, and by dwelling upon the photos of this nature and contents of this (referring to material he was being shown) book...Exposure to obscene and pornographic material was an 'important factor' in the increase in sex crimes, and that violence and murder might be an outgrowth of 'such perversions.'" (Ref. 25)

- - -
BANDITS IN BUS HOLDUP CLAIM TV WESTERNS PROVIDED IDEA

"Two television inspired Montclair hombres admitted to federal officials that they staged the Jesse James style holdup of a Caldwell bound bus as it emerged from the Lincoln Tunnel...Talking freely at their arraignment the youths told Commissioner Thomas W. Clohosey in Newark, that they got the idea for the sensational holdup of the bus driver and passengers while watching television westerns." (Ref. 26)

- - -
MRS. ANNA B. RAINEY, ASSISTANT PROBATION OFFICER, JERSEY CITY, N.J.:

"Horror shows have contributed to the nation's increased juvenile crime rate...TV isn't the sole cause of youth crime, but it may be a contributing factor." (Ref. 27)

- - -
SHERIFF GERALD CUTZWILLER:

"An 11-year old boy held in Jamestown, N.D., accused of writing four bad checks to get money for candy and cookies-- got the idea from a television show. (Ref. 28)

- - -
WILLIAM H. MOORING, MOTION PICTURE CRITIC IN HIS NATIONALLY SYNDICATED COLUMN:

"If the things we see and hear on the screen have no effect upon our thinking and behavior, TV sponsors must be wasting piles of good money on commercials. They tell us this kind of soap, cereal or automobile is superior to that. They dramatize performance of one hair oil as compared with another, hoping to influence our tastes and buying habits. Nine of them sells us all. All of them sell enough of us to make the 'pitch' worth the tremendous price they have to pay the networks. Then when it comes to the entertainment part of the show, the same TV and movie people turn about face... They argue that human behavior is not affected by the drama... Meanwhile parents, social workers and law enforcement officials have known, beyond reasonable doubt, that the alarming spread of crime, especially among the young is largely traceable in effect of ideas thrust upon us all in a never ending stream by crime and sex stories and illustrations in magazines, sensational newspapers, movies, TV, comics, advertising posters and various other communication media." (Ref. 29)

F.B.I. AGENT WILLIAM A. MURPHY OF CLEVELAND:

"Pornographic material is one of the major causes of sex crimes-- a 100% increase in the number of criminal rapes reported and called for more realistic penalties against not only the criminals but also those peddling obscenity...It is appalling that an entire community can work itself into a hysteria of outrage against the sex criminal himself 'yet tend to regard the man who helped trigger the crime as only a contemptible human being better ignored than punished.'" (Ref. 31)

- - -

THE CONGRESSIONAL RECORD:

"A doctor who examined the 13 year old Bethesda boy held for beating and stabbing a neighborhood widow said that there was a direct connection between the assault and the programs the youth watched on television." (Ref. 30)

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ALAN FREED, New York disc jockey was indicted by a Suffolk County Grand Jury on charges of inciting the unlawful destruction of property during a riot touched off at a performance of his rock and roll show Saturday night...The show at Boston arena was attended by more than 6,000 young people. Later, persons, including six women were robbed or assaulted by teenagers. A sailor was stabbed. The trouble led Mayor John B. Hynes to ban future rock 'n roll shows in public auditoriums...Such shows were subsequently banned in New Haven, New Britain, Conn., and Newark, N.J. (Ref. 32)

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BERNARD E. DONOVAN, ASST. SUPT. NEW YORK CITY PUBLIC SCHOOLS:

"As a schoolman, I'm convinced that obscene literature does irreparable damage--particularly to young people." (Ref. 33)

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CHIEF INSPECTOR DAVID H. STEPHENS, POST OFFICE DEPARTMENT:

"Time after time in our investigations of armed robbery, extortion, embezzlement and forgery, it is learned that those responsible for such crimes were early collectors of obscene pictures and films. Also in the many vicious murder and other sex crimes, with which all law enforcement agencies come into contact, it is often disclosed that criminals responsible were addicts to pornographic and sadist material." (Ref. 34)

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BOYS LOOT GRAVE FOR HORROR CLUB:

"Four young boys wanted a human skull so they broke into a Jersey City mausoleum, pried open a coffin and took one... Astonished police said the club members--seven boys whose ages range from 11 to 14--got the idea from a TV horror show...Police said the boys had been motivated by Zacherley's TV show horror films." (Ref. 35)

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GIRL ATTACKER SAYS MOVIE INSPIRED HIM:

"Two young people who spent the early part of the evening at the same 'adult's only' movie crossed paths shortly before midnight last night.

"The girl had three stitches in her scalp today and the man was in Lakewood City Jail.

"The case was listed as a street assault on _____ attacked as she walked to her home from a Detroit Ave. bus-stop shortly before midnight.

"Her assailant, who admitted hitting her on the back of the head with a half a paving brick, was captured as he ran south on Victoria Ave., between Hilliard Rd., and Detroit Ave., at the rear of the Lakewood Police Station.

"Police identified the man as _____ He was charged with assault with intent to rape and held under \$1,000 bond for a court appearance on October 8.

"He said he saw the same movie alone and it prompted him to go looking for a girl to assault. I never had anything affect me like that before, he said. It was about a sex maniac who murders three or four women. I wanted to go out and do the same thing he did..." (Ref. 36)

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The following resolution adopted by the NATIONAL COUNCIL OF JUVENILE COURT JUDGES:

"Whereas the National Council of Juvenile Court Judges are directly aware of the widespread distribution of certain so-called comic books and horror magazines, and other publications depicting sadism, crime, vulgar sex and horror scenes in abnormal, salacious and extreme forms and frequently containing advertisements for the sale of information of sex, vulgar pictures, and dangerous weapons, and

"Whereas, there is a growing realization that such foul publications, through their distribution to children and youth and their extensive encouragement to read them, contribute to the breakdown of the moral sense in children which today is causing an increase in juvenile delinquency throughout the Nation and is often responsible for adult criminality; and

"Whereas, the publication, sale, and availability of these destructive and deteriorating books and magazines and 'comics' have become so prevalent in all parts of the Nation that their presence can no longer be ignored, excused or permitted by individuals charged with rearing, education, and protection of children and youth; and

"Whereas the characters of juvenile delinquency has changed as a consequence of the stimulation of these publications, being no longer the thoughtless, mischievous acts of children, but are reflected in acts of violence, armed robbery, rape, torture, and even homicide, which the vicious and vile publications conditioned the minds of our children;

"Whereas as judges of the juvenile court in America we daily see the tragic and pitiful consequences of the children appearing before us and are conscious of the menace to our children which results from these antisocial and vicious pictures and reading materials; Therefore, be it

(con't)

Resolution adopted by NATIONAL COUNCIL OF JUVENILE COURT JUDGES (Con't)

Resolved, That the National Council of Juvenile Court Judges, urge that action be taken at local, State and National levels of government to curtail, prohibit, and outlaw the publication, dissemination, and distribution of so-called comics, horror magazines, and other publications depicting afore-said objectionable features; and be it further

"Resolved, That civic consciousness be aroused in all our communities through church, fraternal, civic, and business organizations to secure the voluntary cooperation of merchants, magazine distributors, and associations, to place the value of youth above the financial gain resulting from dealing with and in lewd, harmful, and destructive publications; be it further

"Resolved, That the press of America be solicited to aid in the development of public opinion that will help to stimulate and gain support for constructive plans and programs to combat the evil herein denounced." (Ref. 37)

HON. STEPHEN B. KENNEDY, POLICE COMMISSIONER, NEW YORK:

"...There is little question that one factor contributing to juvenile delinquency is the distribution among our young people of indecent publications and articles." When asked if there was a direct relationship between the so-called sex-magazines, those which are borderline, but which nevertheless deal with immorality and deal with perversions--whether there was a connection between them and crime, Mr. Kennedy answered: "I think it is perfectly obvious that it is...no question about it, it does contribute to the commission of crime and delinquency." (Ref. 38)

HALT BOYS' PLAN TO BLOW UP SPAN:

"Two boys, aged ten and thirteen, admitted to police they stole 140 sticks of dynamite from a quarry because they wanted to blow up a bridge in the center of the city as they had seen American soldiers do in a movie of the Korean War." (Ref. 39)

MOVIE INFLUENCE ON DELINQUENCY TOLD TO COURT:

U.S. Supreme Court was reminded of the influence of movies on juvenile delinquency. "Is it safe in the light of the present increase of juvenile delinquency to give carte blanche to a motion picture theater to exhibit any picture without some prior examination to guard against an obscene, lewd, lascivious or immoral spectacle?" a brief submitted to the court by New York State attorneys asked..."Is there any difference from saying that narcotics or liquor shall not be sold to minors?...If there ever was a time in the history of U.S. when a need existed for the supervision of indecent and immoral exhibitions of motion pictures, it is now." (Ref. 40)

CAPTURE OF MAN ACCUSED OF MOLESTING 11-YEAR OLD GIRL

Man, 25, was arrested by a patrolman on charges of assault, impairing the morals of a minor and possession of pornographic literature which police found on his person. (Ref. 41)

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RAPE CASE JAILS FOUR:

One of the youths, 16 years old, through his lawyer, claimed that obscene books and motion pictures had adversely affected him. (Ref. 42)

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KILLED ONE WOMAN AFTER BEING EXCITED BY MOVIE "PSYCHO"

A suspected purse snatcher related he killed one woman after being excited by movie "Psycho." (Ref. 43)

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WILLIAM H. PARKER, LOS ANGELES CHIEF OF POLICE:

"The power of suggestion to persons easily stimulated undoubtedly plays a part in criminal behavior." (Ref. 44)

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FROM THE DIVINE WORD PUBLICATIONS, TECHNY, ILL.:

"A teenager, arrested on charges of taking indecent liberties with a 4th grade girl, was found to have a roomful of the most vile pornography, filth that only a debased mind could conceive, and only an equally debased mind could enjoy.

"A housewife, bothered by constant telephone calls from an individual who made obscene and suggestive remarks, notified the FBI. Later she received a letter containing drawings and threats of bodily harm. Investigating agents traced the letter and discovered the identity of the sender. It was a 16-year old high school student with an admitted addiction to reading suggestive literature.

"A youth of 18 brought to court in a southern city to face charges of indecent exposure and assault with intent to commit bodily harm was found to have in his possession an assortment of girlie magazines and a variety of other smutty literature too sickening to describe." (Ref. 45)

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QUEENS COUNTY (NY) JUDGE JOHN F. SCILEPPI:

"Surveys made concerning sex crimes and sex criminals, their motivations, their impulses, their drives, likewise clearly show that obscenity and pornography are a major producing cause of the sex criminals--the rapist, the sodomist and the sex perverts who daily attack law-abiding women and children in our society." (Ref. 46)

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MSGR. GEORGE H. GUILFOYLE:

"Without exception, it is the experience of the directors and staff in (youth) programs, that the damage caused to children by obscene publications and pornography is readily noticeable, affects the entire personality and values of the person and is extremely difficult and at times practically impossible to correct." (Ref. 47)

DR. M. A. TARUMIANZ, STATE PSYCHIATRIST (DELAWARE):

When asked about the effect of obscene movies on others said:
"I have found that such films are not only detrimental to the youth, but detrimental to any human being who has normal endowments and is not peculiarly psychopathically inclined. It creates various deviations of thinking and emotional instability in regard to sex problems. A happily married individual who is considered a mature adult individual, seeing such films becomes seriously concerned with whether he is obtaining the necessary gratification of his sex desires from his normally endowed and inclined wife. It may deviate him in accepting that there is something which arouses him to become interested in an abnormal type of sex satisfaction which he has had perhaps from this picture. So it is unquestionably detrimental to adults."
(Ref. 48)

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FROM THE BOOK "WHY CHILDREN BECOME DELINQUENT" by John M. Gran:

"Most experienced workers recognize that there are certain factors that occur again and again in cases of delinquency, not always in the same arrangement or cluster and not always as causes, but when a numerical count is taken of all the factors relating to all delinquency cases in a given district, certain factors turn up significantly more often than do others...the writer devised a questionnaire which, with the assistance of the Honorable Walter Scott Criswell of Jacksonville, Florida, editor of the National Juvenile Court Foundation publications, he distributed to various judges of juvenile courts throughout the United States.

"With the permission of Warden Douglas C. Rigg of the state prison at Stillwater, Minnesota, and the assistance of Associate Warden Howard J. Costello, the questionnaire was then submitted to forty-four convicts, selected because they had started on their careers of crime early in their youth. Only those convicts who volunteered to fill in the questionnaire were chosen.

Pornographic material - Of the judges, 70 per cent considered this related to delinquency, and half of those considered it a number-one factor, largely a propulsive force. While only 41 per cent of the convicts cited this as a factor related to their case, of those who did, 68 per cent regarded it as a number-one factor--with a majority reporting it as a propulsive force.

Suggestive movies - Of the judges, 70 per cent cited this as a factor, with 54 per cent of those declaring it a propulsive force. While only 36 per cent of the convicts said it was a factor in their lives, of those who did, 88 per cent considered it a number-one factor.

Suggestive TV programs- Of the judges, 69 per cent considered this a factor; and of those who did, 58 per cent considered it a propulsive force. Only 32 per cent of the convicts blamed TV for their trouble. Of those who did, 64 per cent cited it as a number-one factor and 50 per cent a propulsive force." (Ref. 49)

FORTUNATO BORLONGAN, MANAGING EDITOR - MANILA ARCHDIOCESAN
WEEKLY "FILIPINAS":

"You know, we Filipinos have fought side by side with Americans against the Japanese invaders during World War II and we have always been grateful to the Americans for the education they have given the Filipinos and for the many things they have sent to the Filipinos, but with these good things also have come to the Philippines indecent literature, magazines and movies--crime movies for instance that I can say have corrupted the youth of the Philippine Republic. I maintain that, I repeat, I am just quoting the Philippine elders, whether they are prelates or educators, that the crime movies, indecent literature, obscene reading matter, are a cause of the widespread corruption of the youths in our country." (Ref. 50)

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OFFICE OF
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JERSEY CITY 6, N. J.
OLDFIELD 3-4640

LAWRENCE A. WHIPPLE
PROSECUTOR

ADDRESS ANSWER TO THE ATTENTION OF THE
SIGNER AND REFER TO FILE NO.

February 20, 1961.

Mr. J. G. Deardorff,
Legislative Research Analyst,
Room 118,
State House Annex,
Trenton, New Jersey.

Re: New Jersey Commission to Study
-- Obscenity in Publications. --

Dear Sir:

Prosecutor Lawrence A. Whipple, in accordance with a letter he directed to Assemblywoman Mildred Barry Hughes, Chairman of the Commission to Study Obscenity in Publications, has requested me to make a report on the inquiries contained in a letter he received from Assemblywoman Hughes relative to the study being made by the Commission.

May I therefore submit to your Honorable Commission the following report:

Prosecutor Lawrence A. Whipple, from a study of statistical criminal reports, concluded and agreed with leading authorities that obscenity and pornography in literature was a great motivating factor in the rise of sex crimes, as well as the major crimes of rape, carnal abuse and murder. In a determination that the peddlers of filth would find no ground for growth or life in Hudson County, Prosecutor Whipple intensified a vigorous drive to deter and eliminate the publication, distribution, sale and dissemination of obscene literature in Hudson County.

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Prosecutor Whipple, meeting in conference with the police chiefs of every municipality, served notice that "filth in literature, in any shape or form, would not be tolerated in Hudson County". The Chiefs of Police pledged full cooperation in a police alertness program that has been carried on in an effective and lawful manner in every city and town in Hudson County. A series of Lectures for representatives of the police departments of the municipalities, on the Obscenity Laws of New Jersey, has been inaugurated and is under the direction of an Assistant Prosecutor. The effectiveness of this special police instruction has already evidenced itself in the investigation and police detail in obscenity cases.

A program of education for police and public has been brought about through a conference of Clergy and laity with the Prosecutor's Office, with Prosecutor Whipple leading in the discussion concerning citizens' participation in protecting community decency and maintaining the "highest community standards of decency". Results have been encouraging and presently there has been requested and there will be conferences with representatives of distributors and store retailers who have expressed desire to participate in a program of full cooperation to keep Hudson County free from filth in literature.

In spite of the fact that the great majority of citizens desire to cooperate, society must protect itself against that element who will not be deterred from violating the obscenity laws of our State and total elimination of such offenders must be through enforcement of the laws of our State.

The test for Obscenity as established In Re Roth vs. U.S., 77 Sup. Ct. 1304, on June 24, 1957 has established a pattern under which a defendant may have a fair trial be it by Judge or jury. Keeping in mind this

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decision of Justice Brennan, we may state that the New Jersey Statute -- 2A:115-2 is legally sound to bring about the conviction of a defendant who violates this law.

May I, however, suggest that Legislative Amendment to prove the following should make stronger this important law of our State and I, therefore, would propose -- "Proposed Amendment N.J.S. 2A:115-2 to read:

"Any person who (KNOWINGLY) and without just cause utters, exposes to the view of another, or possesses with intent to utter or expose to the view of another, or to sell any obscene or indecent book, pamphlet, picture or other representation however made, or who in any way advertises the same, or in any manner whether by recommendation against its use or otherwise, gives any information how or where any of the same may be had, seen, bought or sold is guilty of a misdemeanor."

POSSESSION of any obscene or indecent book, pamphlet, picture or other representation, however made, shall be prima facie evidence of knowledge of the contents of such obscene or indecent book, pamphlet, picture or other representation, however made, and said possession shall be prima facie evidence of the intent of the possessor to utter or expose to the view of another, or to sell such obscene or indecent book, pamphlet, picture or other representation however made.

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In reference to N. J. S. 2A:115-3.1, I would recommend that this statute be amended to provide:

"Any person, firm or corporation or any agent, officer or employee thereof engaged in the business of distributing wares, publications or other articles of any kind whatsoever to retail dealers, who sends or delivers to a retail dealer (a book, pamphlet, magazine or other form of printed or written material, knowing it to be obscene, indecent or impure, which said dealer had not previously ordered in writing, specifying the title and quantity of such publication desired), or who shall refuse to furnish to any retail dealer such quantity of goods, publications or other articles sought to be purchased by said retail dealer because said retail dealer refuses to purchase or accept delivery of lewd, lascivious or obscene publications or material, shall be guilty of a misdemeanor."

Such an amendment would give strength to the present law and go to the direct source of distribution.

Legislative consideration should also be given to the thought of a Licensing Authority of corporations, individuals engaged in the industry of publication, distribution and even sale of all reading material, not with the thought of any pre-censorship, but with the interest that is viewed in the supervision of the major industries of our State, for the protection of the general welfare of the citizenry of the State as well as those in the industry. The enactment of the Acts of Assembly of the Commonwealth of Virginia, 1960, offers a new approach to the subject of obscenity laws.

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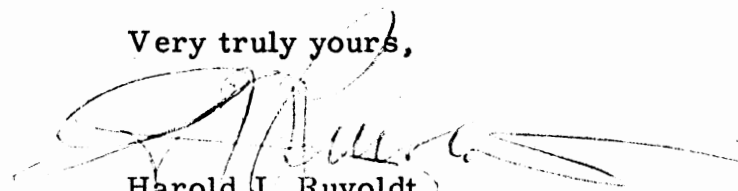
Mr. J. G. Deardorff

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May I, therefore, state that the report herein is for the information of your Honorable Commission. I trust that Prosecutor Whipple will be happy to explain in greater detail some of the matters within this report if you so desire to have him do so.

I have been directed by Prosecutor Whipple to advise you that if we may be of any further service to your Commission, we will be available to you and the full facilities of the Prosecutor's Office of Hudson County will be at your call.

Very truly yours,



Harold J. Ruvoldt,
Assistant Prosecutor
Special Division To Deter And Eliminate
Obscene Literature.

HJR/MC

[illegible]

Cat. No. 23-221

