

The Porno Pendulum: Back to the Middle

Washington [RNS] — With the latest Supreme Court decisions on pornography, the pendulum has swung back toward the middle.

From the time when a work might be banned because some parts were considered pornographic, the pendulum moved to the point where a work could not be banned if it included anything that could be considered of "redeeming social value." Now a work must be judged as a whole.

State legislation against obscene books, magazines, movies and other works, the Supreme Court decided, "must be limited to works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political or scientific value."

And in another important guideline, the court said the determination of what was prurient did not have to be made according to national standards, but that state or local standards could be used. The test is how the material strikes the average person applying the contemporary standards of his community.

"It is neither realistic nor constitutionally sound to read the First Amendment as requiring that people of Maine or Mississippi accept public depiction of conduct found tolerable in Las Vegas or New York City," said Chief Justice Warren Burger, who wrote the majority opinion in all five cases.

Each state, therefore, is now permitted to frame laws in accordance with standards prevailing in its area, or to let local government set standards.

For books, magazines, movies and other material distributed nationally, the new decisions bring the prospect of prosecution in some areas although they may be legal in the place where they are produced.

Chief Justice Burger was joined in the majority decision by Justices Harry A. Blackmun, Lewis F. Powell, Jr., William H. Rehnquist and Byron R. White.

Dissenting were Justices William O. Douglas, William J. Brennan, Jr., Potter Stewart and Thurgood Marshall.

In his majority opinion, Chief Justice Burger took note of arguments by the dissenting justices that restrictions on pornography might endanger freedom of ideas.

"These doleful anticipations," he said, "assume that courts cannot distinguish commerce in ideas, protected by the First Amendment, from commercial exploitation of obscene material."

It has been argued, Mr. Burger wrote, that there is no scientific data proving the alleged adverse effects of pornography, and that state regulation of pornography is therefore impermissible. "We reject this argument," he said, noting that legislatures had always acted on unprovable assumptions and that a state legislature "could quite



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reasonably" determine that there was a connection between anti-social behavior and obscene material.

If it is accepted that good books, plays and art improve the mind and develop character, he asked, "can we then say that a state legislature may not act on the corollary assumption that commerce on obscene books, or public exhibitions focused on obscene conduct, have a tendency to exert a corrupting and debasing impact leading to anti-social behavior?"

The court also rejected the contention that the government cannot impede an individual's desire to see or acquire pornography. "Most exercises of individual free choice — those in politics, religion and expression of ideas — are explicitly protected by the Constitution," Mr. Burger said. "Totally unlimited play for free will, however, is not allowed in ours or any other society."

Two Justices Argue Against Smut Ruling

Washington [RNS] — Justice William J. Brennan, Jr., raised the specter of "state-ordered regimentation of our minds" in a sharp dissent from the U.S. Supreme Court's ruling on pornography, while Justice William O. Douglas asserted that obscenity cases "have no business being in the courts."

They expressed dissent, with Justices Potter Stewart and Thurgood Marshall on all of the five cases involved in the Court's June 21 rulings.

In his remarks, Justice Brennan emphasized what he saw as the possibility of government control of the behavior of citizens, while Justice Douglas focused on the constitutional aspects of the rulings.

Justice Brennan charged that "if, as the Court today assumes, a state legislature may act on the assumption that commerce in obscene books, or public exhibitions focused on obscene conduct, have a tendency to exert a corrupting and debasing impact leading to antisocial behavior, then it is hard to see how state-ordered regimentation of our minds can ever be forestalled."

He maintained that the reasoning of the majority decisions could lead to the

conclusion that "a state could decree that its citizens must read certain books or must view certain films."

Regarding First Amendment freedoms, Justice Brennan declared that "even a legitimate, sharply focused state concern for the morality of the community cannot justify an assault on the protections of the First Amendment. Where the state interest in regulation of morality is vague and ill-defined, interference with the guarantees of the First Amendment is even more difficult to justify."

State interests, he concluded, "cannot justify the substantial damage to constitutional rights and to this nation's judicial machinery that inevitably results from state efforts to bar the distribution even of unprotected material to consenting adults."

Justice Douglas stated that in such cases, "we do not deal with constitutional terms, since 'obscenity' is not mentioned in the Constitution or Bill of Rights." For this reason, he suggested that such problems of censorship "should be done by constitutional amendment after full debate by the people."

In his dissent, Justice Douglas maintained that the Court had



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adopted "freshly written standards defining obscenity which until today's decisions were never the part of any law." He noted that "even those members of the Court who created the new and changing standards of 'obscenity' could not agree on their application."

Another factor that was emphasized by Justice Douglas was that "there is no 'captive audience' problem in these obscenity cases. No one is being compelled to look or to listen."

He declared that "obscenity cases usually generate tremendous emotional outbursts. They have no business being in the courts."

Smut Foe Praises Court Decision

New York [RNS] — The U.S. Supreme Court's stern stand on pornography is a sign that the Court is becoming more responsive to the "anguish of the people" who clearly want "smut" stopped, a Jesuit priest said here.

Father Morton A. Hill, SJ, a national president of Morality in Media, Inc., said the Court decision begins the job of "damming up the flood of pornography that has been inundating the country in the past few years."

The Supreme Court, in a 5 to 4 decision, ruled that material does not have to be "utterly without redeeming social value" to be declared obscene or pornographic. It also gave the local community authority to judge obscenity.

"We've been working for a long time to get this decision," said Father Hill, a veteran anti-smut crusader and a dissenting member of the Presidential Commission on Obscenity and Pornography. "For the past eight

years the courts and legislatures have been plagued with uncertainty (over tests of obscenity)."

"Now we have clarity," he said. "The sun is out — the sun is shining. The rain has stopped. I'm very happy."

Father Hill, 56, said the Court decision "has given leeway to the individual states to use local standards in applying the prurient interest and patent offensiveness tests."

Family Retreat Draws 150 to Stella Maris

The first family retreat at Camp Stella Maris was held last week, and brought together 150 people, including 18 families for seven days of sharing.

According to Father Robert Hammond, family retreat's founder and organizer, the retreat offered a wide range of religious and recreational activities for families.

The summer retreat program was begun five years ago, with a handful of families at Notre Dame Retreat House. Since then, it has rapidly grown, and two more weeks of family retreats will be offered at the end of August.

Joe Hetu and his family made the trip to Stella Maris last week, and he was very pleased with it. He calls himself an "old-timer" because he has made the family retreat since its inception.

"This is the type of thing everybody would like to see happening on the local, parish level," he said, "where we can recognize the problems we share and be open and honest about them."

Tom Walters and family of five attended, and found their week "very satisfying." Walters enjoyed the group discussions most, and said, "We've know now what it means to be Christians. We've all learned from each other."

Jean Sweeney, who went with her husband and three children, said, "This is a delight. I've been more enthusiastic about this than anything else we've gone to. I have never seen my children so happy. I just hope it carries over when we get home."

Father Hammond's assistants were Father David Gramke and Sister Diane Branch. Twenty volunteers were also on hand to help conduct the retreat.

ROMEO AND JULIET

Shakespeare's *Roméo and Juliet* will be presented tonight and tomorrow, July 4 and 5, 8:30 p.m. at the University of Rochester Summer Theatre, 612 Wilson Boulevard. For information, phone the box office at 275-4068.



WORD FOR SUNDAY

Fr. Albert Shamon

Sunday Readings: (R1) Ex. 2:2-5. (R2) 2 Cor. 12:7-10. (R3) Mk. 6:1-6.

The apparently trivial episode of the rejection of Jesus by His fellow townsmen possessed profound significance for St. Mark. One of the problems confronting the early Christians was to explain why Jesus had been repudiated by His own people.

"If Jesus were the Jewish Messiah," pagans asked, "if He were the fulfillment of Jewish hopes, how was it He came to His own and His own did not receive Him?"

To answer an objection somewhat like that prompted St. Mark to recount the incident of Jesus' rejection by His own townfolk. This incredible happening occurred after Jesus had performed three stupendous miracles.

The Nazarenes did not deny the reality of those mighty works nor the supernatural wisdom that impregnated His preaching. They were amazed! They even asked the right questions about the origin and meaning of such power and wisdom. But then there was a complete round-about-face. The questions were not rightly answered. Amazement did not lead to faith. And why? All because the Nazarenes reminded themselves that Jesus had once been a carpenter in their own home town and that they knew His family well.

How unbelievably stupid! Why should a humble origin or the lowly trade of a craftsman prevent His being the Messiah? Yes, why? Because they had preconceptions — misconceptions! They were a prejudiced jury, "rebels who have rebelled against Me." They believed if He had come from one of their one — lowly ones — He could not have come from God. For they had been entertaining far loftier expectations. Obstinate, they had clung to the notion that the Messiah would be a conquering king, when all the facts pointed in the opposite direction.

Furthermore, they did not want to believe. The wish fathers the thought. It is a fact of human nature that we tend to envy only those who are close to us. For only those near us can really touch us. If Jesus were a prophet, it would have been annoying to

them — perhaps a reflection on them. Envy reasons thus: "We are as good as He, but we cannot teach as He does nor can we perform the wonders He does. Therefore His teaching cannot be wise and His wonders not so wonderful."

St. Mark exposes how groundless and worthless were the reasons for this rejection of Jesus, because he saw it as typical of the rejection of Jesus by the people at large. What happened at the end of our Lord's life was essentially what had happened here at Nazareth. The reasons for His final repudiation by the people were as unjustifiable and baseless as those of the Nazarenes.

But for Israel to rebel against God and His servants was "par for the course" — Ezechiel got the same treatment (R1), so did St. Paul (R2). In fact, it became proverbial that a prophet is honored everywhere, and among everyone, with three exceptions: in his own home town, by his relatives and by his neighbors (R3).

There is a philosophical saying that "whatever is received is received according to the disposition of the receiver." As the container shapes the water poured into it, so attitudes can mold what is seen and is heard.

Sermons, for instance, would be more effective if congregations would only remember that they preach far more than half the sermons. In an atmosphere of expectancy, the poorest effort can catch fire. In an atmosphere of critical coldness and hostility, the most Spirit-packed utterance, as that of Jesus at Nazareth, can surge fruitlessly like a sea wave breaking itself on cold, gray stones.

If men come together to see no other point of view but their own, they will see no other. If they come together in hate, they will hate. If they come together in love, then Christ becomes present in their midst.

Even omnipotent power is limited — limited by our own dispositions. "He could work no miracle there... so much did their lack of faith distress Him." And the awful tragedy — Jesus left Nazareth and, as far as we know, never went back!