

## Editorial Comment

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# Editorial Comment

While man has from the natural law the right to say what he thinks, like other natural rights, it is not unlimited. There is no freedom of speech recognized concerning matters which are untrue or injurious to persons or harmful to the general welfare.

It follows that the state has the right to limit freedom of speech and of the press in so far as is necessary for the welfare of the community. Under this right of limitation pornography is properly suppressed since the state has the duty to protect its citizens from things harmful to mental health.

It is one thing, however, to admit that the state has the right to limit freedom of speech and of the press, and quite a different thing to ask how far the state should go in the prudent exercise of this right. Indeed, history has shown that an overactive censorship is an unwise, political policy and that it is better to tolerate some abuses for the sake of liberty than to correct all abuses by suppressing liberty.

Because of this problem of degree, censorship through statutory enactment by the state and federal governments is in a violent period of change which requires diligent consideration by our legislative bodies. The implications of recent juridical and judicial determinations, and various procedural tools which have been developed in some jurisdictions in recent years, should be studied. Legislative concern for the serious problem confronting the American people in the sale and distribution of obscene materials should be reflected in legislative inquiry and community response. Such inquiry, however, can only properly be made after a detailed analysis of the decisional law of obscenity, particularly that which has developed in the past ten years.

Aware of the necessity for this preliminary step, as Editor of *The Catholic Lawyer*, I requested Dean John Hayes of Loyola University of Chicago Law School to survey the decisions on the law of obscenity in the past decade and indicate the area wherein he deemed legislation

to be appropriate. His scholarly and thorough analysis appears on the immediately following pages.

Elsewhere in this issue there appears a very excellent article entitled "Increasing Charitable Contributions Through the Use of Trusts" by Philip Martin, Jr. and Joseph Sinclitico, both of the faculty of San Diego Law School. Readers may recall an earlier article in *The Catholic Lawyer* on the same general subject by Professor Joseph Garland entitled "Charitable Remainders and the Income Tax." The present article reviews Treasury Department rulings which have come down since the Garland article and discusses the effect of such rulings on present law. It is clear that the current problems which exist in this area make a reading of this article a "must" for all attorneys who are in any way involved in trust law.

A handwritten signature in black ink, appearing to read "Edward Tegen". The signature is written in a cursive style with a long horizontal line extending to the right.

EDITOR