



# The Phyllis Schlafly Report



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## LBJ'S Pornography Report: A \$2 Million Whitewash

The report of the Presidential Commission on Obscenity and Pornography, appointed by Lyndon Johnson in January 1968, is a fraud on the American taxpayers, an outrageous attack on morality, and will result in additional financial profits for the billion-dollar smut racket.

This Commission spent \$2 million and 2½ years. It was supposed to find a solution to the moral pollution which everyone knows is of epidemic proportions through mail order, movie, stage, and paperback obscenity. Instead of blaming the pornography peddlers who are making fortunes in this racket, the report called for the repeal of most laws against obscenity. The smut peddlers couldn't have received a bigger boost if they had written the report themselves.

The Act of Congress which created this Presidential Commission (Public Law 90-100, approved October 3, 1967) clearly states in Section 1: "The Congress finds that *traffic in obscenity and pornography is a matter of national concern* . . . It is the purpose of this Act to establish an advisory commission whose purpose shall be . . . to recommend advisable, appropriate, *effective*, and constitutional means *to deal effectively with such traffic in obscenity and pornography* . . . ."

The recommendations of this Commission, which were released in August 1970, are directly contrary to the Act of Congress which created the Commission. Instead of treating obscenity as "a matter of national concern," the Commission treats it as a matter of *no* concern.

"Instead of recommending "means to deal effectively with such traffic in obscenity and pornography," the Commission recommends that federal, state and local legislation prohibiting the sale, exhibition or distribution of sexual materials to consenting adults should be repealed. The merchants of filth could not ask for anything more!

The Commission on Obscenity and Pornography directly violated the "duties of the Commission" which Congress defined in Section 5 of the anti-pornography bill as follows: "It shall be the duty of the Commission . . . to recommend such legislative, administrative and appropriate action as the Commission deems necessary to regulate effectively the

flow of such traffic . . ." Instead of proposing legislation to regulate effectively the flow of obscenity, the Commission calls for repeal of the existing Federal, state and local laws against the traffic in obscenity.

### Spending \$2 Million

Congress appropriated \$2,000,000 for the Commission to carry out its Congressional mandate to recommend ways to stop "the traffic in obscenity and pornography." How was this money spent -- or misspent?

The Commission used some of this appropriation of taxpayers' money to expose college students to hard-core pornography and to measure their reactions to a steady diet of smut.

The Commission also used funds to hire an executive of the American Civil Liberties Union as chief counsel. Charles Keating, the only Commission member appointed by President Nixon, described this as like "putting a burglar in charge of the jewels." Keating was referring to the long A. C. L. U. record of opposing enforcement of anti-obscenity laws.

After appointing another A. C. L. U. member, William B. Lockhart, to the Commission, President Johnson then named him Chairman. This is another flagrant example of illegal strong-arming practiced by the LBJ Administration. Section 2 of the law creating the Commission clearly says: "The Commission shall *elect* a Chairman and a Vice Chairman from among its members." It does *not* say the Chairman and Vice Chairman will be appointed by the President of the United States. When Commission member Father Morton A. Hill, S. J. objected to this obvious maneuver aimed at stacking the Commission, he received a call from the White House stating that he would be removed if he didn't accept LBJ's appointment of Lockhart as Chairman.

LBJ also appointed as Commission members the attorney for the Motion Picture Association of America and the vice president of the book company which published the pornographic best seller, *Do It!*, by one of the convicted Chicago Seven, Jerry Rubin. This constituted further stacking of the Commission because these LBJ appointees had a vested interest in a Commission report which would *not* interfere with the

very profitable X-rated movies or the sex books business.

### Pornography Harmless?

The Pornography Commission report makes the unsupported finding that "pornography does not cause sex crimes or harm individuals," and recommends that the Federal government finance sex education for everyone including adults. The Commission did not check with FBI Director J. Edgar Hoover or the many police chiefs who have said that nearly every sex criminal has a cache of obscene materials in his possession.

The Commission ignored the report of a team of sex researchers with excellent academic credentials which concluded that pornography *does* play a significant role in relation to criminal acts of sexual nature. This report from Dr. Keith E. Davis, chairman of the Rutgers University psychology department, and George N. Braucht of the University of Colorado, concluded that young boys exposed to erotic material before the age of 14 may develop deviant sex behavior. Their findings were based on a study of 365 men between the ages of 18 and 30, a significant number in any scientific experiment.

Although the Commission allowed time to hear the testimony of persons favoring weakening of existing anti-pornography laws -- or doing away with them completely -- it did not call distinguished scientists who asked for time to testify about the dangers of erotic material. One such expert is Dr. Melvin Anshell of Los Angeles who wrote the Commission as follows:

"Psychosexual disturbances do not result from a lack of such [sex] knowledge either early or late in life. Paradoxically, detailed, public schooling in these matters is prone to produce the very abnormalities that proponents of sex programs say they wish to prevent.

"In my experience as a physician, with not an inconsiderable number of young patients, I find that the *overly informed* youths are the ones most likely to have sexual problems.

"Group participations in sensual sex whether by means of actual sex acts, through the use of pornographic media or with the help of classroom sex programs are contrary to the normal intimate nature of sexuality. Only in a horde culture can sex be accepted as an entirely open matter, freely exposed."

### Influence on Society

The Commission also ignored the testimony of Dr. Victor Cline of the University of Utah who stated that pornography *does* cause anti-social conduct. Dr. Cline refuted the oft-repeated quip of former Mayor Jimmy Walker of New York that "no girl was ever ruined by a book." On the contrary, books have changed the conduct of millions of men and women, Dr. Cline says, citing Karl Marx's *Das Kapital*.

Dr. Cline called the report of the Presidential Commission "rigged," a "gross mixture of truth and error, part science fiction and certainly a travesty as a scientific document."

Robert B. Downs, author of *Books That Changed The World*, further proves this point. He writes: "Throughout history, the evidence is piled high that

books, rather than being futile, harmless and innocent, are frequently dynamic, vital things, capable of changing the entire direction of events -- sometimes for good, sometimes for ill." Books cited by Downs include Darwin's *Origin of Species*, Freud's *The Interpretation of Dreams*, and Harriet Beecher Stowe's *Uncle Tom's Cabin* which had "immense influence in instigating the American Civil War."

Other books of great significance would include the Bible, Hitler's *Mein Kampf*, and, more recently, Rachel Carson's *Silent Spring* (which sparked the whole issue of environmental control), and Ralph Nader's *Unsafe At Any Speed* (which led to a critical examination of automobile safety).

The Presidential Commission did not hear the large amount of significant evidence on how civilization is adversely affected by a lack of sexual restraints. For example, the noted psychoanalyst, Dr. Bruno Bettelheim, recently wrote in *The New York Times Magazine*: "If a society does not taboo sex, children will grow up in relative sex freedom. But so far, history has shown that such a society cannot create culture or civilization; it remains primitive."

The well-known Harvard sociologist, Dr. Pitirim Sorokin, stated: "There is no example of a community which has retained its high position on the cultural scale after less rigorous sexual customs have replaced more restricting ones."

Oxford Professor J. D. Unwin, author of *Sex and Culture*, made massive studies of 80 primitive and civilized societies and concluded that they reveal a distinct correlation between increasing sexual freedom and social decline. The more sexually permissive a society becomes, Unwin says, the less creative energy it exhibits and the slower its movement toward rationality, philosophical speculation, and advanced civilization.

In an article in *The New York Times Magazine*, the famous historian Arnold Toynbee argued that a culture which postpones rather than stimulates sexual experience in young adults is a culture most prone to progress.

### Selling Sex

The multi-billion dollar advertising industry is built on the assumption that printed and illustrated words *do* influence the conduct of people. *Playboy* magazine has proven this with its revenues rising from \$1.5 million in 1959 to \$32.4 million in 1969. It is ridiculous for the Commission to say, in effect, that although the ads in *Playboy* do influence its readers, *Playboy's* pornographic pictures and text do not!

The LBJ Commission on Obscenity spent \$2 million of tax funds to try and make dirty books, plays and movies legal. Why? The principal beneficiary is those who are making tremendous profits on dirty entertainment. In no business has the return on invested capital been greater, with profit margins of up to 10,000 percent. The Swedish sex movie, *I Am Curious--Yellow*, cost only \$160,000 to film; to date, it has made \$5 million.

Why else would a major Hollywood studio, known for years for its excellent films, hire a director of cheap pornographic movies to turn out a film such as *Beyond The Valley of the Dolls*? Even the liberal critics say this movie is disgusting. But the director knows how to turn out pornography and rake in a profit for the studio -- and so he was hired.

Movies such as *I Am Curious--Yellow*, *What Do You Say To A Naked Lady*, and *Man And Wife*, plays such as *Oh Calcutta*, *Hair*, and *The Dirtiest Show in Town*, and books such as *Portnoy's Complaint* and *The Sensuous Woman* have made fantastic profits on low investments.

The lawyers and psychiatrists who defend smut in court also get rich. Grove Press spent more than \$500,000 in legal fees to obtain a 2-to-1 decision in the U.S. Court of Appeals reversing a ruling against the Swedish sex film *I Am Curious--Yellow*. This decision overruled the splendid decision of the lower court that the movie was obscene, which was handed down by Judge Thomas Murphy (the successful prosecutor of Alger Hiss).

Producers of the sex film *Man And Wife* have paid legal fees amounting to \$1 million. *The Wall Street Journal* recently described a 28-year old lawyer who has been out of law school only two years and is already earning \$200,000 in annual fees defending smut sellers. One of the highest paid lawyers in the United States, Stanley Fleishman, is reported to earn more than \$250,000 a year defending obscenity dealers in court.

To paraphrase a famous saying, "There's no business like the filthy entertainment business." And now the Presidential Commission has recommended that nothing be done to hinder this dirty business -- and that nearly all existing restrictions be repealed!

### "The End of Obscenity"

One of the highly paid lawyers for the smut publishing business, Charles Rembar, has bragged in his book called *The End of Obscenity* how he persuaded the U. S. Supreme Court to so weaken our anti-pornography laws that "there is no longer a law of obscenity."

In the 1957 landmark case called *Roth v. U. S.*, the Supreme Court said: "Implicit in the history of the First Amendment is the rejection of obscenity as utterly without redeeming social importance. . . . We hold that obscenity is not within the constitutionally protected speech or press."

What the *Roth* decision meant by this was that obscenity has *no* social importance whatsoever and is *not* protected by the First Amendment. A pudding which contains arsenic has *no* nutritional value.

Charles Rembar boasts in his book that he persuaded the Supreme Court to change this rule to read: "A work cannot be proscribed unless it is found to be utterly without social value." This language was adopted in the 1966 case called *Woman of Pleasure v. Massachusetts*, sometimes known as the *Fanny Hill* case. Under this new rule, Rembar's client, the book, *Fanny Hill* was held not obscene because the prostitute

reformed on the last pages of the book. Ironically, the word "pornography" is derived from two Greek words meaning "writing about harlots," and *Fanny Hill, Woman of Pleasure*, was precisely that.

In his book, Rembar boasts how he was the architect for the change in the Supreme Court rule. It looked like a minor change in semantics -- changing "social importance" to "social value", and transposing the word "utterly" to another part of the sentence. But the result was the beginning of the "social value" racket which has now grown to such a ridiculous extreme that all a pornographer has to do is to insert a few social or literary passages, and his poisonous obscenity is clothed with the Constitution. The obscene Swedish movie, *I Am Curious--Yellow*, is defended on the ground that, although it pictures intercourse explicitly and in public, this is protected by the First Amendment because the young couple "does their thing" on the balustrade of the royal palace in Stockholm as a protest against social institutions.

### Supreme Court Box Score

After the *Woman of Pleasure* decision, the smut peddlers increased the volume of their output many times over -- and they matched it with lavish funds for legal services to carry dozens of cases up to the Supreme Court and to overwhelm the Justices with their clever and sophisticated arguments.

By October 1966, the obscenity racket was in full swing, and the dealers flooded the Supreme Court with 26 appeals from lower court convictions. Taking even one case all the way to the Supreme Court is a tremendously expensive project, and the mere existence of 26 cases at one time shows the great financial resources of the obscenity dealers, their determination to change our laws which have been in existence for nearly 200 years, and their optimism that this could be accomplished under the Warren Court with Fortas, Black and Douglas adopting their most extreme arguments.

The obscenity dealers were not disappointed. The Warren Court sat on the 26 cases for seven long months, and then in May 1967 started handing down a revolutionary series of decisions which has continued unabated to the present time. During 1967, 1968 and 1969, the Supreme Court ruled on 38 obscenity cases. In 36 cases, the Court ruled FOR the obscenity dealers, and only twice AGAINST the obscenity dealers. This means that the Supreme Court ruled in 36 cases that the obscenity dealers and their lawyers were right -- but 36 lower courts, and all the judges, juries, appellate courts, and law enforcement officials connected with these cases were wrong. These 36 Supreme Court reversals lowered the community standards of 15 different states: New York, Kentucky, Arkansas, Oklahoma, California, Georgia, Virginia, Kansas, Ohio, Tennessee, Illinois, Florida, Texas, Louisiana, and New Jersey.

### Moral Revulsion

Even the liberals are becoming concerned about the growing smut trade. Morris Ernst, a liberal lawyer who is a longtime opponent of censorship, is one who has spoken out.



President Nixon and Phyllis Schlafly at the White House, June, 1970.

Ernst, who defended James Joyce's *Ulysses* -- one of the first landmark rulings against our anti-obscenity laws -- told *The New York Times* on January 5, 1970 that he "deeply resented the idea that the lowest common denominator, the most tawdry magazine, pandering for profit, to use the Supreme Court word, should be able to compete in the marketplace with no restraints."

The evil fruits of the pornographic explosion, triggered by the Supreme Court in 1966, are now everywhere apparent. The FBI reports a large increase in forcible rape with one such crime committed every 14 minutes. Syphilis and gonorrhea are today more prevalent than any other contagious disease and are epidemic in New York and Washington.

The liberal black columnist Carl Rowan confirms this fact as follows: "VD is suddenly the No. 1 communicable disease in the country . . . syphilis among youths under 19 has more than doubled and reports of gonorrhea have doubled." One of the nation's largest health insurance companies, Blue Shield, finds this fact so alarming that it has taken out full-page ads in some of the leading magazines to warn that: "Teenage syphilis and gonorrhea are the biggest things to hit the suburbs since crabgrass."

Blue Shield notes that "Last year 300,000 nice kids reported cases of syphilis and gonorrhea. And there are probably three times that number of teenage cases unreported or unnoticed."

Why? Because the attack on our moral standards launched by the money-grubbing smut peddlers and their lawyers has exploded in America's face. Now is the time to do something about it! As Vice President Spiro Agnew said in Springfield, Illinois on September 10: "How do you fathom the thinking of these 'radical-liberals' who work themselves into a lather over an alleged shortage of nutriment in a child's box of Wheaties -- but who cannot get exercised at all over that same child's constant exposure to a flood of hardcore

pornography that could warp his moral outlook for a lifetime."

### The Solution

The Presidential Commission on Obscenity and Pornography has proved itself incapable of providing any solution to the epidemic of smut we see today. The Commission has wasted \$2 million of the taxpayers' money conducting studies on pornography to titillate the curiosity of the commissioners and their staff. This is the wrong approach.

Every member of the Presidential Commission was appointed by President Johnson -- except one, Charles Keating of Cincinnati, who was appointed by President Nixon. Keating issued a statement charging that the Commission's report is "fraudulent" and "rigged," and that it was written by "revolutionaries" who have "preconceived ideas" and a "bias which is a matter of record." President Nixon disowned the radical and immoral report of the LBJ-appointed Commission.

The best solution to moral pollution and the only one of the 150 bills now pending in Congress which will make any significant dent in the billion-dollar smut racket is S. 1077, introduced by the late Senator Everett Dirksen.

The reason why the Dirksen bill is so superior is that it will immediately and completely eliminate a prime cause of the spread of obscenity -- the Supreme Court turning loose the smut peddlers who have been convicted by local juries. The unprecedented series of 36 Supreme Court decisions in favor of obscenity during 1967, 1968, and 1969 gave the green light to the entire smut racket.

The Dirksen bill is grounded firmly on Article III, Section 2, of the U. S. Constitution which gives Congress the power to deprive the Supreme Court of jurisdiction to lower state standards of public morality, as expressed by jury verdicts in obscenity cases. This principle of removing Supreme Court jurisdiction has been upheld numerous times in the past, and it is time we use it *now* to stop the flood of obscenity. The last thing Senator Dirksen did before he died was to complete an article describing his bill for the November 1969 *Reader's Digest*. Now is the time for passage of Senator Dirksen's bill. You can help by writing your Senators and demanding action.

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