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Book Review

Jack F. Smith
Cleveland-Marshall Law School

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Book Review

Reviewed by Jack F. Smith*

THE SMUT PEDDLERS by James Jackson Kilpatrick. Published by Doubleday & Co., New York; 323 pp.; 1960.

James Jackson Kilpatrick, editor of the *Richmond News Leader*, is a believer in free speech. *The Smut Peddlers* is an examination of freedom of speech as applied to literature and motion pictures which may be obscene. More important, the book is devoted to an extensive examination of what is and what is not obscene from the standpoint of the law.

At the outset, the average individual will be shocked by the volume of unquestionably obscene matter which is available to one who makes but a slight effort to secure it. The author merely answered a few advertisements, found in what he calls "girly" magazines, and found that he was immediately placed upon a mailing list which circulated throughout the United States and Europe. As a name upon the list, he received offer after offer soliciting the sale of pornographic material.

While the average dealer in obscene material is, by choice, a fly-by-night operator, the author tells of one whose material weighed an estimated fourteen tons and took eleven people working for a month to inventory.

Against the tide of pornographic material which is flooding the country there stand but a few dedicated Post Office Inspectors who do more than their duty in attempting to halt the flood. Unfortunately for their efforts, all the peddler of smut needs to do is transfer his material and mailing list to a new address, assume a new name, and the inspectors must begin all over.

Progressing from the printed word or cartoon, the author proceeds to a discussion of motion pictures as media entitled to freedom of speech, and runs down the evolution of that right as applied to them.

The major portion of the book is devoted to depicting the difficulty of the courts in arriving at a legal conclusion as to what is and what is not obscene. Here the *mores* of society must be kept in mind; which means that what would be classed as obscene at one period would fall outside such classification at another period. To the courts, which follow precedent and thus tend to change more slowly than does society, this has posed quite a problem, and still does. Add to this the fact that the courts have jealously guarded the individual's constitutional rights, including his right to freedom of speech, and the problem becomes mountainous.

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For decades the courts attempted to lay down a formula which could be used to determine whether a particular book or movie was obscene. What is obscene differs according to the individual. Finally, the formula adopted was whether the average person, applying contemporary community standards, finds that the dominant theme of the material, taken as a whole, appeals to prurient interest.

The author then discusses the case for censorship and the case against censorship, and concludes with what he terms the middle ground. As a newspaper man, his instincts say that if there is a question as to whether a particular work is or is not obscene, the work should be given the benefit of the doubt.

This is a book that should be read by all those who advocate complete freedom of speech, as they usually do so without a full knowledge of what such complete freedom involves. It is a book that should be read by all those who advocate complete censorship, as they usually do so without a full knowledge of what is involved in complete censorship. It is a book that should be read by all, regardless of whether they actively espouse censorship or a complete lack thereof, as it points up a problem that we have had with us for some time in the past and will have with us for some time in the future.

