The joint hearing was called to order at 8:05 a.m. Senator Close was in the Chair.

SENATE MEMBERS PRESENT:	ASSEMBLY MEMBERS PRESENT:
Senator Close	Co-Chairman Hayes
Senator Hernstadt	Mr. Stewart
Senator Dodge	Mr. Banner
Senator Raggio	Mr. Brady
Senator Sloan	Mr. Coulter
Senator Ford	Mr. Fielding
Senator Don Ashworth	Mr. Horn
	Mr. Malone
	Mr. Polish
	Mr. Prengaman
	Mr. Sena
SENATE MEMBERS ABSENT:	ASSEMBLY MEMBERS ABSENT:
None	None

Senator Close stated that the purpose of the joint hearing was to take testimony on the following measures:

AB 141 Prohibits advertisement of prostitution where its practice is unlawful.

AB 142 Creates crime of using minor in preparing pornography.

AB 143 Revises test for obscenity and provides civil remedies.

Assemblyman Jan Stewart testified in support of these measures. He stated that AB 141 directs itself to a situation wherein advertisements for houses of prostitution are appearing in areas of the state where prostitution is not legal. Mr. Stewart indicated that this type of advertisement made it appear that prostitution was legal in these areas, when in fact, it is not.

In regard to AB 142, Mr. Stewart informed the Committees that this is more or less patterned after a federal law which makes it a crime to use minors in preparing pornography.

Mr. Stewart testified that AB 143 addresses the subject of obscenity in general. The most important part of AB 143 is the adoption of the Miller standard, which arises out of the U.S. Supreme Court case of Miller vs. California. In that ruling, they defined obscenity and approved its regulation in accordance with that definition.

Senator James I. Gibson informed the Committees that he was the Chairman of the interim subcommittee from which these bills came. The Legislative Commission assigned a Priority 3 to this study, which he felt indicated the importance with which it was regarded.

Senator Gibson stated that, because of the controversy that usually develops over this type of legislation, it was the decision of the subcommittee to stay within the confines of existing judicial opinions. He stated that they reviewed all existing Nevada statutes; all pertinent court decisions at the various levels; made an analysis of the existing laws of other states, and reviewed the status of those laws (whether or not they had been tested in court).

Senator Gibson testified that the two major concerns expressed during the public hearings held on this matter, were the exposure of children to pornography, and the exemption for libraries and other educational institutions.

He explained that the purpose of limiting the exemption to publicly controlled institutions was that, in other jurisdictions, they found that there soon developed "libraries of erotic art" or "museums of sexual behavior;" all of which were means of getting around the law.

Senator Gibson further stated that the law enforcement community testified that, in many instances, a violator will continue his efforts because it is profitable for him to challenge the law and whatever fines may come of it. The interim committee felt they could reach that problem by depriving the individual of any monetary gains made through the disregard of an injunction.

Assemblyman Jan Stewart introduced Dr. Blain McLaughlin. He stated that Dr. McLaughlin has extensive experience as an expert witness in many obscenity trials throughout the country. He is a Doctor of Medicine and a practicing psychiatrist in Texas.

Dr. McLaughlin informed the Committees that he began fighting pornography in 1970 when he appeared as a witness for the federal government. Since that time, the problem of pornography has grown enormously and it seems to give the impression, particularly to young and impressionable people, that this is the standard for our society. He stated that the human mind is very delicate, particularly in its formative stages. People involved in pornography use the argument that it is sexual education. Dr. McLaughlin disagreed and stated that it was sexual "mis-education." He informed the Committees that pornography does not depict sexual acts, but rather sexual play-acting which is often times of a pathological nature. He stated that if you press a pathological sexual issue enough, you will condition many people to think that it is not abnormal activity.

In regard to pornography being a "victimless crime," Dr. McLaughlin stated that there were many victims involved. The first victim of pornography is the people involved in making it. The next victim is the person who is sexually inexperienced and is starved for some sort of emotional expansion. This person is made pathological by

pornography because they substitute it for the reality of interpersonal sex. The most important victims of pornography are the children who are exposed to it, not only themselves, but through the people with whom they relate. Dr. McLaughlin felt that pornography damages the family tie and society as a whole.

Senator Dodge asked if Dr. McLaughlin could comment on the completeness or clarity of AB 143.

Dr. McLaughlin responded that, although he could not answer from a legal standpoint, he felt that it was as good as could be done at the present time. He stated that the act should be written as clearly as possible, so that the policeman on the street could understand the language. He further stated that it is next to impossible to get technical, expert witnesses for this type of hearing.

Senator Don Ashworth asked, pursuant to the Miller decision, if it would not be difficult to attach this to a community standard in that it is apparently always changing.

Dr. McLaughlin replied that that was a difficult problem that was going to have to be dealt with. He felt that there was going to have to be a middle ground where people can have sexual expression without going overboard.

Assemblyman Coulter asked, if there was a law restricting the age limit of persons who could enter a pornographic business, who would it be hurting?

Dr. McLaughlin responded that it would depend on the individual and his background. However, he felt that pornographic businesses encouraged solicitation of prostitution which was detrimental to neighborhoods.

Assemblyman Coulter pointed out that solicitation for prostitution was already a crime. It was his opinion that if an age limit were placed on who could view pornographic materials, it should be left up to the individual to decide.

Dr. McLaughlin stated that every adult has some point of weakness in his sexual education and sexual fixations. When an individual sees something that suggests that the sky is the limit; that you can do anything that you want to, the tendency is to lower the standards of your own personality defenses.

Senator Close questioned whether there was any relationship between the commission of sex crimes and the observation of pornography.

Dr. McLaughlin replied that that was a very difficult thing to prove. The President's Commission on Pornography and Obscenity, under the direction of Judge Fortas, indicated that there was no great difference, and that perhaps it might even be better to have pornography. He also stated that in Denmark, they allowed for certain areas of

town which were devoted exclusively to pornographic businesses, in the hope that it would cut down on rape. According to reports published, they seem to suggest that they were right. There is a huge interest in pornography and less interest in acting out rape. Dr. McLaughlin felt, however, that more time should be devoted to studying this concept.

Senator Don Ashworth asked if pornography could have a similar effect on a person's mind as a drug would have. Dr. McLaughlin answered that a person could desensitize himself against sex through taking in pornographic material over a long period of time.

Senator Hernstadt asked if Playboy magazine would become illegal in Nevada. Dr. McLaughlin answered that this would depend upon what was published from month to month. He said that publishers of this material like to see how close they can come without being questioned.

Mahlon Edwards, Deputy District Attorney from Clark County, said that it should be firmly established and understood that the Supreme Court has declared that pornography is not constitutionally protected material. He said the Miller standard is needed in Nevada to determine what is protected material and what is not.

In reference to AB 141, Mr. Edwards said that the implication of advertising appearing in Clark County publications regarding prostitution in other counties is that prostitution is legal throughout the State. He said there is nothing Clark County can do to control this advertising, but since the State has the authority to abolish prostitution, he felt there was also the authority to control the advertising. He said that advertising in certain places has already been controlled to a certain extent. He felt AB 141 could be more comprehensive in mentioning specific areas of media.

Mr. Edwards, referring to AB 143, said that the U.S. Supreme Court in a case regarding pornography said that various studies, scientific and medical, and surveys by congressional subcommittees indicate that just limiting pornography to consenting adults does not in reality limit it or keep it from getting into the hands of minors.

Mr. Edwards said that a universal belief that a good environment and proper surroundings improve the mind was something that could be turned around. Therefore, he asked why a State Legislature should not be able to say that an obscene book acts in the other way. He said that as an individual and as a representative of the Clark County District Attorney's Office, he would urge passage of the three bills being considered.

Alan Andrews, an attorney from Las Vegas, said he did not think anyone would be against protecting children through passage of AB 142, but he said he did not think the bill would stand constitutionally as written. He suggested taking out the language on Page 1, Lines 7 and 8, "for the purpose of preparing a film, photograph or any other representation," so that the Legislature would not be trying to regulate a book, magazine or film. He said that then the bill would be dealing only with the criminal conduct. If the language was not deleted, he said the Legislature would find itself dealing with the First Amendment where there has been no definition of obscenity.

Mr. Andrews also felt there were constitutional problems with AB 141. He said this bill would create a collision between First Amendment rights to advertisement and Fifth Amendment rights. He said that the U.S. Supreme Court has made it clear that advertising is protected by the First Amendment, and he referred to the case of Bigelow vs. Virginia in upholding the right to advertise.

In reference to AB 143, Mr. Andrews felt Section 2 raised serious constitutional questions. He felt that something that was obscene should be obscene for all. In reference to Section 5, he said that a district court should not be issuing the order which is mentioned. He said that such an order should be issued only when an appellate court has rendered its affirmation of the lower court decision. With the judicial process, he felt that an individual would not know if his product was considered obscene by community standards for at least six months. He stated also that community standards are constantly changing.

Senator Hernstadt asked if the problem raised in AB 141 would be better solved by abolishing prostitution in the State. Mr. Andrews answered that this would get around the advertising problem.

Senator Ford asked Mr. Andrews what his recommendation would be to the Legislature in consideration of the current law. Mr. Andrews said he would recommend enacting legislation reinforcing the protection of children. He said that it should be a felony to sexually use or abuse children. He recommended the consideration of a consenting adults statute. He also said that if the Legislature uses the Miller standard, some of the problems that have been grafted into it should be corrected before it is passed.

Senator Close noted that materials had been previously distributed to the Committees as examples of pornography that had been purchased in Las Vegas. He stated that the materials were disgusting, and he said it was the obligation of the Legislature to prevent that type of material from being sold in the State.

Mr. Andrews said he would agree the material was disgusting, but he said that individuals had the choice not to look at it. He said that all of the tests that have been performed up to date show that there is no correlation between exposure to erotic material and antisocial behavior. He said that the material could have a warning on its cover that it was "disgusting."

Senator Dodge said that it was all right to talk about a consenting adults statute. However, he said the reality was in trying to prevent damage to youngsters who might obtain some of the pornographic material purchased by adults, and he asked how that might be done. Noting Mr. Andrews' recommendation to make harder penalties on those sexually abusing children, he said that many times it is difficult to find out who gave the materials to the children.

Mr. Andrews said that anything the Legislature would do in this session would not totally keep this material out of the hands of minors. He said there would have to be certain constitutional rights given away to completely protect that situation.

Mr. Andrews stated that he did not think the material passed out to the Committees would fit the Miller standard. He said they were bought in a bookstore and sold in the community. Under the Miller standard, they would have to offend community standards. He felt he could win a jury trial concerning the magazines.

Linda Mabry, Las Vegas Deputy City Attorney, said that the City very strongly favors adoption of the Miller standard in Nevada. She said she would later submit written testimony to the Committees.

Florence McClure of the Rape Crisis Center, Las Vegas, said that in reference to the First Amendment arguments, she did not see how the forefathers of the country could have seen what is being dealt with today. She referred to two books, Against Our Will and Politics of Rape, which she said show there is now a feeling that there is a correlation between pornography and sexual crimes. She stated that people who deal in pornography should do more than just pay a fine. She said many of these individuals feel that the fine is an expense of doing business. She recommended "a good prison sentence."

Dan Seaton, Chief Criminal Deputy of the Clark County District Attorney's Office, disagreed with Mr. Andrews on the Bigelow case in discussion of AB 141. He said this case involved two states, whereas AB 141 talks of a situation between counties in one state.

Mr. Seaton said that the Legislature has the ability to control prostitution in any way it sees fit. He said if prostitution can be legal in Nye County and illegal in Clark County, it should be very easy to make it illegal to advertise Nye County's prostitution in Clark County.

Mr. Seaton asked what the wording, "in their place of business," on Page 1, Line 19 of AB 141, would mean. He said the legislation should be rewritten to clearly show that a publisher could not publish in Clark County anything about prostitution occurring in another county where it is legal.

Mr. Seaton said he did not see a constitutional problem with AB 142. He said the bill was attempting to curtail a criminal conduct. He said the bill simply refers to the act that may be being filmed or photographed. He said this was not abridging a First Amendment right; rather abridging the right of an adult to get children to engage in sexual acts.

Mr. Seaton said that if the wording was eliminated in AB 142 as suggested by Mr. Andrews, it would probably broaden the law so that people who committed these acts without using photographs could be prosecuted. He said he would agree to this type of change.

Martha Gould, Nevada Library Association, stated that they wished to commend the intertim subcommittee for the work they have done in the area of censorship and obscenity, and in particular, their recognition of the need to protect libraries and access to information.

In regard to AB 142, she informed the Committees that the Nevada Library Association and the American Library Association wished to go on record as considering child pornography to be an abomination and a gross form of child abuse.

Senator Close asked, if in the event they were unable to exempt libraries from this, what the NLA's position would then be.

Mrs. Gould replied that she would have to review the bill first, but that she felt that the Association would have to move to protect libraries and access to information.

John Foley, Las Vegas attorney, and representing the Las Vegas News Agency, Inc., concurred with previous testimony in support of the adoption of the Miller standard.

He indicated however, that on Page 3, Line 27 of AB 143, there was a minor departure from the Miller language. AB 143 merely says "genitals," where the Miller language refers to "lewd exhibition of the genitals." It was his opinion that this language be added.

Senator Raggio questioned whether or not that would be covered by "patently offensive way."

Mr. Foley responded that he did not think so. He further stated that he felt the Miller standard should be followed as closely as possible.

The Committees were called to General Session at this time. Further testimony will be taken at a later date.

The meeting was adjourned at 10:00 a.m.

Respectfully submitted,

Cheri Kinsley

Cheri Kinsley, Senate Secretary

Carl R. Ruthstrom Jr.

Carl R. Ruthstrom, Jr., Assembly Secretary