

5-18-1981

05-18-1981 Justice Stewart, Dissenting

Potter Stewart
US Supreme Court Justice

Follow this and additional works at: <https://ir.library.illinoisstate.edu/flynyvohio>



Part of the [Criminal Law Commons](#)

Recommended Citation

Stewart, P. Justice Stewart, Dissenting. Flynt v. Ohio, 451 U.S. 619 (1981). Box 367, Harry A. Blackmun Papers, Manuscript Division, Library of Congress, Washington, D.C.

This Opinion is brought to you for free and open access by the U.S. Supreme Court papers, Justice Blackmun at ISU ReD: Research and eData. It has been accepted for inclusion in Flynt v. Ohio, 451 U.S. 619 (1981) by an authorized administrator of ISU ReD: Research and eData. For more information, please contact ISURed@ilstu.edu.

SUPREME COURT OF THE UNITED STATES

No. 80-420

Larry C. Flynt, Jimmy R. Flynt
and Althea Leasure Flynt,
Petitioners,
v.
State of Ohio.

On Writ of Certiorari to
the Supreme Court of
Ohio.

[May 18, 1981]

JUSTICE STEWART, with whom JUSTICE BRENNAN and JUSTICE MARSHALL join, dissenting.

I believe that a criminal trial of the petitioner under this Ohio obscenity law will violate the Constitution of the United States. See, *e. g.*, *Wood v. Georgia*, — U. S. —, —, — (separate opinion of JUSTICE BRENNAN) (separate opinion of JUSTICE STEWART); *Sewell v. Georgia*, 435 U. S. 982, 988 (dissenting opinion); *Splawn v. California*, 431 U. S. 595, 602 (dissenting opinion). It is clear to me, therefore, that “identifiable . . . constitutional policy” will be “undermined by the continuation of the litigation in the state courts.” *Ante*, p. —.

Accordingly, I think that under the very criteria discussed in the opinion of the Court, the judgment before us is “final for jurisdictional purposes.” *Ante*, p. —. Believing that the Ohio trial court acted correctly in dismissing the complaints, and that the state appellate courts were in error in overturning that dismissal, I would reverse the judgment.