protection of unwilling adult recipients, or proscription of pandering,[1322] the Court succinctly summarized the varying positions of the seven Justices in the majority and said: "[w]hichever of the constitutional views is brought to bear upon the cases before us, it is clear that the judgments cannot stand . . . ." [1323] And so things went for several years.[1324]

Changing membership on the Court raised increasing speculation about the continuing vitality of *Roth*; it seemed unlikely the Court would long continue its *Redrup* approach.[1325] The change when it occurred strengthened the powers of government, federal, state, and local, to outlaw or restrictively regulate the sale and dissemination of materials found objectionable, and developed new standards for determining which objectionable materials are legally obscene.

At the end of the October 1971 Term, the Court requested argument on the question whether the display of sexually oriented films or of sexually oriented pictorial magazines, when surrounded by notice to the public of their nature and by reasonable protection against exposure to juveniles, was constitutionally protected.[1326] By a five-to-four vote the following Term, the Court in *Paris Adult Theatre I v. Slaton* adhered to the principle established in *Roth* that obscene material is not protected by the First and Fourteenth Amendments even if access is limited to consenting adults.[1327] Chief Justice Burger for the Court observed that the states have wider interests than protecting juveniles and unwilling adults from exposure to pornography; legitimate state interests, effectuated through the exercise of the police power, exist in protecting and improving the quality of life and the total community environment, in improving the tone of commerce in the cities, and in protecting public safety. It does not matter that the states may be acting on the basis of unverifiable

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[1322] 386 U.S. at 771.

[1323] 386 U.S. at 770–71. The majority was thus composed of Chief Justice Warren and Justices Black, Douglas, Brennan, Stewart, White, and Fortas.

[1324] *See* Paris Adult Theatre I v. Slaton, 413 U.S. 49, 82–83 & n.8 (1973) (Justice Brennan dissenting) (describing *Redrup* practice and listing 31 cases decided on the basis of it).

[1325] *See* United States v. Reidel, 402 U.S. 351 (1971) (federal prohibition of dissemination of obscene materials through the mails is constitutional); United States v. Thirty-seven Photographs, 402 U.S. 363 (1971) (customs seizures of obscene materials from baggage of travelers are constitutional). In Grove Press v. Maryland State Bd. of Censors, 401 U.S. 480 (1971), a state court determination that the motion picture "I Am Curious (Yellow)" was obscene was affirmed by an equally divided Court, Justice Douglas not participating. And Stanley v. Georgia, 394 U.S. 557, 560–64, 568 (1969), had insisted that *Roth* remained the governing standard.

[1326] Paris Adult Theatre I v. Slaton, 408 U.S. 921 (1972); Alexander v. Virginia, 408 U.S. 921 (1972).

[1327] 413 U.S. 49 (1973).