croach upon the limited area of more important interests. But implicit in the history of the First Amendment is the rejection of obscenity as utterly without redeeming social importance." [1306] It was objected that obscenity legislation punishes because of incitation to impure thoughts and without proof that obscene materials create a clear and present danger of antisocial conduct. But because obscenity was not protected at all, such tests as clear and present danger were irrelevant.[1307]

"However," Justice Brennan continued, "sex and obscenity are not synonymous. Obscene material is material which deals with sex in a manner appealing to prurient interest. The portrayal of sex, *e.g.*, in art, literature and scientific works, is not itself sufficient reason to deny material the constitutional protection of freedom of speech and press . . . . It is therefore vital that the standards for judging obscenity safeguard the protection of freedom of speech and press for material which does not treat sex in a manner appealing to prurient interest." [1308] The standard that the Court thereupon adopted for the designation of material as unprotected obscenity was "whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest." [1309] The Court defined material appealing to prurient interest as "material having a tendency to excite lustful thoughts," and defined prurient interest as "a shameful or morbid interest in nudity, sex, or excretion." [1310]

In the years after *Roth*, the Court struggled with many obscenity cases with varying degrees of success. The cases can be grouped topically, but, with the exception of those cases dealing with protection of children,[1311] unwilling adult recipients,[1312] and procedure,[1313] these cases are best explicated chronologically.

[1306] 354 U.S. at 484. There then followed the well-known passage from Chaplinsky v. New Hampshire, 315 U.S. 568, 571–72 (1942).

[1307] 354 U.S. at 486, also quoting Beauharnais v. Illinois, 343 U.S. 250, 266 (1952).

[1308] 354 U.S. at 487, 488.

[1309] 354 U.S. at 489.

[1310] 354 U.S. at 487 n.20. A statute defining "prurient" as "that which incites lasciviousness or lust" covers more than obscenity, the Court later indicated in Brockett v. Spokane Arcades, Inc., 472 U.S. 491, 498 (1985); obscenity consists in appeal to "a shameful or morbid" interest in sex, not in appeal to "normal, healthy sexual desires." *Brockett* involved a facial challenge to the statute, so the Court did not have to explain the difference between "normal, healthy" sexual desires and "shameful" or "morbid" sexual desires.

[1311] In Butler v. Michigan, 352 U.S. 380 (1957), the Court unanimously reversed a conviction under a statute that punished general distribution of materials unsuitable for children. Protesting that the statute "reduce[d] the adult population of Michigan to reading only what is fit for children," the Court pronounced the statute void. Narrowly drawn proscriptions for distribution or exhibition to children of materials which would not be obscene for adults are permissible, Ginsberg v. New