## STATEMENT OF LEGAL ISSUES

I

DOES THE TRIAL COURT, AND HENCE THIS COURT, HAVE JURISDICTION OVER THIS DECLARATORY JUDGMENT ACTION AGAINST THE STATE OF SOUTH DAKOTA?

Trial court held that it had jurisdiction.

II

DO PLAINTIFFS HAVE STANDING TO ASSERT THAT PARTICULAR ACTIVITY DECRIMINALIZED BY THE LEGISLATURE MUST NONETHELESS REMAIN A CRIME; DO PLAINTIFFS HAVE A RIGHT TO ASSERT THAT CERTAIN ACTIVITY MUST REMAIN A CRIME IN SPITE OF REPEAL; AND DOES THE TRIAL COURT HAVE THE AUTHORITY TO DECLARE THAT ACTIVITY DECRIMINALIZED BY THE LEGISLATURE MUST REMAIN A CRIME?

Trial court held in the affirmative on all three points.

III

HAS THERE BEEN EITHER A "PHYSICAL INVASION" TAKING OR A "REGULATORY TAKING" OF PLAINTIFFS' PROPERTY

WHERE THE CRIMINAL REGULATORY BACKGROUND HAS VARIED THROUGHOUT THE HISTORY OF THE STATE?