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Congressional Record - Introduction of a Bill Relating to Obscenity Control in the Mails

Mike Mansfield 1903-2001

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S. 3220—INTRODUCTION OF A BILL
RELATING TO OBSCENITY CON-
TROL IN THE MAILS

Mr. MANSFIELD Mr. President, just as the "pushers" are the ones most responsible for and, therefore, the most guilty in the traffic of narcotics so is the "pusher" who distributes pornographic material through the mails the most responsible and the most guilty in that area.

It is not a question so much of being the recipient of narcotics or pornographic materials, although that is a vital question, but, rather, it is more a question of how we must deal with those who have the primary responsibility. In that respect, I am glad to note, very glad to note, that the Judiciary Committee of yesterday reported out a narcotics control bill which the Senate may be assured will be called up for action as expeditiously as possible.

I am today introducing a bill dealing with pornography which seeks to put the "fix" on those who are primarily responsible for the propagation and continuation of the distribution of unsolicited pornographic materials into the homes of our people.

This traffic in smut must cease and those who are responsible for it must be punished.

Mr. President, pornography, obscenity, filth, and perversion; that is the package that is sent to my constituents in Montana. That is what is being sent to citizens across the land. And its distributors reach into the privacy of one's home through an instrumentality of the Federal Government—the U.S. Post Office Department.

Much is said lately about our first amendment, Freedom of religion and of the press; the right to assemble peaceably and to speak out—these are fundamental guarantees under our Constitution. But what is also protected is our right of privacy and that right, though long recognized as equally fundamental, is perhaps the least enforced of all of our freedoms when it comes to the filth and dirt that is brought to our homes by the Post Office.

I do not criticize the Post Office Department. Its hands are tied. But we in the Congress could untie them if we act now—this year—to crack down on the peddlers of filth.

There are pending in committees of both the House and Senate a number of proposals aimed directly at the 20 or so corporate panderers of obscenity whose ruthless exploitation reaps millions of dollars a year out of the pornography market at the expense of the young and unsuspecting, the unaware and the unsophisticated. No one is safe from their acts of corruption. Their aim is simple—to reach into the very privacy of one's home with a message of indecency and perversion.

I am a cosponsor of a number of the proposals that seek to curb these filth peddlers. And today I submit another proposal on the subject—one that seeks clearly to protect the young and the unsuspecting, the unaware, and the unsophisticated.

My proposal would compel the filth peddler to mark the envelope he uses—the one that is now often blank—with a warning that the enclosure could be obscene or offensive. With such a warning there can be no mistake. The addressee is fully protected. He would be put on notice, as would his entire household. He would know and his family would know that what is inside may violate his standards of decency and those he wishes to impress upon his children. And that is his right.

May I say that such a warning is not new to the legislative field. It has already been imposed by the Congress in the case of cigarettes. Indeed, without even deciding that there is a danger involved in smoking, cigarette manufacturers are compelled to warn each purchaser of a possible hazard. By the same token, under my bill, it need not be decided that the material enclosed is obscene, per se. But if there is that possibility, then the envelope must say in plain and simple words, "The Enclosed Material May Be Obscene or Offensive to the Addressee."

A second feature of my proposal would permit the addressee of obscene mail to return the matter to the sender, without charge. And it is left up to the addressee himself to decide what violates his standard of decency. The return mail fee would be paid by the original sender—the pusher, in other words—with an additional handling charge.

Finally, violators of either of these provisions would be met with a penalty of \$5,000.

Perhaps my proposal is not a perfect solution. It is one, however, that I believe brings into proper balance the right of privacy on the one hand and the right of the press to use the mails on the other. If enacted it will for the first time impose an effective check on the distribution of obscenity in our society and place the burden where it belongs—on the filth peddler.

Mr. President, the Missoulian, of last December 4 carried a story on this matter written by Lynn Schwanke. In it Postmaster Guy Rogers of Missoula relates very clearly many of the problems faced by his office on this problem. I ask unanimous consent that the article be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER Without objection it is so ordered.
(See exhibit 1.)

Mr. MANSFIELD Mr. President, I urge the Committee on the Judiciary to act on the obscenity proposals now. I can assure the Senate that once on the calendar, they will receive the highest priority of the joint leadership.

I urge the committee to act swiftly as well on the crime proposals. I am happy to note they have acted on at least one of the narcotics proposals. Certainly there are no issues more critical to the quality of our lives today. The proposed Drug Abuse Control Act, the dangerous

substances proposal, the bail reform and witness immunity measures, the organized crime matters and all of the proposals in these areas are vitally needed to deal effectively with drugs and crime. It is up to us in the Congress to do everything in our capacity to see that all of these matters are written firmly into the law books as soon as possible and hopefully, before this session closes.

Mr. President, I send my bill on obscenity to the desk and ask that it be appropriately referred.

EXHIBIT 1

ROGERS SAYS RECEIVERS MUST COMPLAIN
LOCAL MAIL FAT WITH PORNOGRAPHY, SAYS
POSTMASTER

(By Lynn Schwanke)

Missoula's mail is growing fat with pornographic materials, Postmaster Guy Rogers says.

Each year more of the questionable literature seems to circulate through the Missoula Post Office, Rogers said.

"There's nothing we can do about it" according to the postmaster. "In essence the Supreme Court has decreed that no one person censor another person's mail. Unless we get direct complaints from the receiver, our hands are tied."

The postmaster said he could not make an accurate estimate of the amount of pornography which passes through the local post office, but he described it as "a tremendous amount."

Rogers said the material is easy to recognize, "especially when we get 3,000 envelopes alike and one complaint."

Pornography is defined by the dictionary as "a portrayal of erotic behavior designed to cause sexual excitement."

Rogers said one of the contributing factors to the growing volume of pornography is the import market. He said the literature is legal in Sweden and Denmark, and it comes through the U.S. mails clearly marked "pornography" and "is put up like Life magazine."

The only recourse the post office has to halt obscene materials is through the persons who receive it, Rogers said.

The official said the post office has numerous complaints about the materials from individuals. Persons who receive the literature and wish to complain may go to the post office and sign a form which states they do not want the material and find it offensive. The form is sent to Washington, D.C., to the Office of the General Council which contacts the mailing firm and orders that the name of the complainant be taken from the mailing lists.

"Actually all it does is help the matters correct their mailing lists," Rogers said.

If the firm does not remove the name of the complainant from its list, the Post Office Department has the power to exclude all that firm's mailings from the U.S. mail.

"It's impossible to stamp it out," Rogers said. He explained that the companies will do business under one name then change to another title and move to another town before authorities can move in.

"In the old days we could get them for fraud, but now they deliver what they promise," the postal official said.

Rogers noted that most of the material is pictures and films of nude women in suggestive poses. He said the increase in volume probably is due to the percentage of return orders. "People do order this stuff," he said, "and when they do, it costs them."

The postmaster also noted that mailing lists make it easy for the pornographic literature to be widespread. He said companies delivering the obscene materials can easily buy alphabetized mailing lists with all pertinent mailing information, including ZIP codes, then resell them when they are done.

Rogers said a lot of the material goes to business addresses.

"We get a lot of people who complain," the postmaster said, "but until the legislatures do something about it and the courts take something other than a liberal point of view, we can't stop it."

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3220) to protect a person's right of privacy by providing for the designation of obscene or offensive mail matter by the sender and for the return of such matter at the expense of the sender, introduced by Mr. MANSFIELD (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the bill (S. 3220) just introduced by our able majority leader on the subject of pornography.