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Congressional Record S. 419 - Mansfield Amendment re: Return of Obscene Mail

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CONGRESSIONAL RECORD—SENATE

S 419

"(B) 'nudity' means the showing of the human male or female genitals, public area, or buttocks with less than a full opaque covering, the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state;

"(C) 'sexual conduct' means acts of masturbation, homosexuality, sexual intercourse, physical contact with a person's clothed or unclothed genitals, public area, or buttocks, or, in the case of a female, physical contact with her breast;

"(D) 'sexual excitement' means the condition of human male or female genitals in a state of sexual stimulation or arousal; and

"(E) 'sadomasochistic abuse' means flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

"(b) (1) In order further to protect a person's right of privacy, any mail matter received by an addressee, and determined by him in his sole discretion to be obscene, may be returned to the sender through the mails, without prepayment of postage by the addressee, by placing the words 'Obscene Mail Matter' in the upper right hand corner of the address area of the envelop or other cover used to return such matter.

"(2) The sender shall pay, for each piece of mail matter returned under this subsection as being obscene, postage at the rate of first-class mail plus an additional service charge.

"(3) The service charge, which shall not be less than 50 cents for each piece, shall be determined and adjusted at least once each year by the Postmaster General and shall approximate the cost incurred by the Department with respect to the delivery of such matter and the collection of postage and other expenses incurred. The service charge shall be in lieu of any other charges assessed under this title for unpaid or part paid mail.

"(c) A sender who fails to mark the envelope or other cover of mail matter as required by subsection (a) of this section, or who refuses to pay the postage or the service charge for any piece of mail matter, returned under subsection (b) of this section as obscene or offensive, shall be subject to a civil penalty of $5,000 for each piece of such matter which is not marked or refused. A civil action to collect any such civil penalty may be brought by the United States in the district court of the United States for any judicial district in which the sender resides, has his principal place of business, or is found, or in the district court for the judicial district to which mail matter, subsequently resulting in the civil action to collect the civil penalty, was sent. Process of any such court for any such district issued in any such action may be served in any other judicial district.

"(d) The Postmaster General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

"(b) The analysis of such chapter, immediately preceding section 4081, is amended by adding at the end thereof the following new item:

"4081. Designation and return of obscene or offensive mail matter

Mr. MANSFIELD. Mr. President, I will be brief.

The amendment is in effect the bill, S. 3220 which I introduced on December 9 of last year and which was read twice and referred to the Committee on Post Office and Civil Service.

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 morally culpable.

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 has reported out a narcotics control bill which will be brought up on the floor of the Senate very shortly.

Federal legislation deals with pornography. It 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 the conscientious constituent in Missoula, Montana. That is what is being sent to citizens across the land. And its distributors reach into the Office Department. The last President said:

"The senders of obscenity use their mail privilege to promote their ultimate traffic which is purely a Federal matter."

The President said further on:

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

I note that the President of the United States, the distinguished majority leader, has already in his message at your ears, said the post office is in the business of dealing with obscenity, and it is in the interest of our prominent mail order house—well, it was Sears, Roebuck—that contained ads for all the unmentionables they refer to. To someone that was so pornographic that they wanted Sears, Roebuck to stop those ads.

What is means is that we must have a little more latitude there. I suggest, to the Senator that to stamp an article that is being mailed for advertising purposes as obscene, and that it may be offensive, perhaps would require a very careful look so that one could say it is obscene.

In this way we would get at what the distinguished majority leader is talking about. I would like to say to him that the Committee on Post Office and Civil Service would be willing to look at this at the next session of Congress, in order to come up with a recommendation to this body that might be approved by Members of this body as a matter of fact that this is a matter which the administration, in order to come up with a recommendation, to this body that might be approved by Members of this body as a matter of fact that this is a matter of some considerable urgency.

However, between those matters, I say to the Senator from Montana and I pledge, we will make every effort to take up this matter and make a positive recommendation along the lines the majority leader has set out in the amendment.

Mr. MANSFIELD. I appreciate the position in which the chairman of the Committee on Post Office and Civil Service finds himself. I know that he will give this matter his prompt attention. I hope it would be possible to report out legislation dealing with obscenity through the mail—not the Sears, Roebuck type but the real type—within the next month or two. If the Senator could give me a definite assurance that something would be done within 1 or 2 months, I would be appreciative and I would withdraw my amendment.

Mr. Mcgee. Within that 1- or 2-month time interval I am sure we can have adequate opportunity for the Committee to consider this matter and report back to this body and make a recommendation. I will make every effort to
move in that direction and encourage any action in that direction.

Mr. MANSFIELD. I appreciate the remarks of the Senator from Wyoming, who is chairman of the Committee on Post Office and Civil Service. His word is always his bond.

Mr. President, I withdraw my amendment.