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### Congressional Record S. 14925 - Pornography

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### THE FIGHT AGAINST PORNOGRAPHY

Mr. MANSFIELD. Mr. President, on yesterday, I had the opportunity to appear before the Committee on Post Office and Civil Service and there I spoke on behalf of the bill, S. 3220, introduced by the Senator from Arizona (Mr. GOLDWATER) and me. It seeks to face up to the problem of unsolicited pornographic literature being sent through the mails to unsuspecting persons who neither desire nor want it but who, unfortunately, have had no recourse until the amendment to the postal reform bill introduced by the Senator from Arizona (Mr. GOLDWATER), which I co-sponsored, as did a number of other Senators, took the first step in facing up to the problem of the invasion of the privacy of one's home in this manner—a manner which, incidentally, puts the U.S. Government, through the Post Office Department, in the position of being the handmaiden in the delivery of this type of stuff, this smut—to people who neither desire nor want it—the type of lewd literature which all too often falls into the hands of children and against which there is not, up to this time, sufficient protection.

Mr. President, I ask unanimous consent to have printed in the RECORD the testimony which I gave yesterday on behalf of the Mansfield-Goldwater proposal.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

#### THE FIGHT AGAINST PORNOGRAPHY

Mr. Chairman and Gentlemen of the Committee: Among the most basic troubles facing this nation today are crime, violence, and pornography. Many people talk about these subjects but seem unwilling to do anything to curb them. Many people raise Constitutional questions about proposals before the Senate, Constitutional questions which—I might say—have to do with the rights of the accused and the criminal elements more than they do with the Constitutional rights of the robbed, the raped, the maimed, and those who are subject to receiving unsolicited pornographic literature through the mails. I emphasize the word "unsolicited."

I point out that when this type of lewd literature comes through the mails, it is delivered to unsuspecting parents and often

times to their children. Just as under the Drug Control Act, the emphasis in this legislation should be placed on and against the "pusher" or peddler of this smut. It is long past the time when we must face up to legislation of this sort and do something about this type of pernicious propaganda. Our people are entitled to privacy within their homes. They should not be assaulted with this type of "literature" and, therefore, their rights to privacy must be maintained.

I mentioned the Constitutional rights we advocate in behalf of the accused, the criminal, the pusher, and the peddler. What about the rights of the innocent and the aggrieved? Should we sit by and quibble over Constitutional questions which the Courts can and should decide while allowing crime to become more rampant, while allowing violence to continue to spread, while we see our police insulted, spat upon and accused of being "pigs" to mention just one of the least obscene epitaphs heaped on them? Or are we going to face up to our responsibilities as Senators and meet these issues head-on in behalf of the people we represent?

As I have said, Mr. Chairman, talk alone is worthless. And sometimes, action is not politically expedient. I believe we owe our primary responsibility to the people of this nation, and I believe too many of us have been derelict in our responsibilities in facing up to these issues of violence, crime and pornography.

The First Amendment to the Constitution is not all-embracing because it has definite limits in the right to exercise the freedoms involved. I believe in the First Amendment but I do not believe it allows any leeway for crime, for license, or for the sending of unsolicited pornographic materials through the mails to the citizens of this country.

As our society enters a new decade, the American people are both confronted with and confused by some of the most complex issues ever faced in our history. Increased crime and drug addiction, a widening gulf between the young and old, between our congested urban centers and the sparse rural areas, student unrest, and the on-going crisis over our foreign involvement; these constitute just some of the problems. One of more recent origin concerns the protection of individual privacy. This right is as fundamental as the safeguards provided under the Constitution. It includes most assuredly the protection of our citizens from unwanted invasions of their privacy in the form of unsolicited, obscene, pornographic materials.

In the past several years there has been a tremendous increase in the indiscriminate mailing of obscene matter through the United States mail. These mailings go out under any number of mailing lists obtained from a variety of sources. In most cases they receive the protection given First Class mailings. These advertisements and circulars are offensive. They shock the general moral standards of most citizens. And there must be some way to protect the individual, especially to safeguard the very young and impressionable against this kind of unwanted solicitation. Doing so while also recognizing the privacy of the United States mails is a difficult task indeed. In any case, I believe that we must hit hard at the purveyor and give the receiver some means of resource.

My mail on this general subject has been extremely heavy during the past year. I have given the issue a great deal of thought about what must be done.

As a first step, I was pleased that the amendment offered by the distinguished Senator from Arizona (Mr. Goldwater) and myself to the Postal Reform bill was enacted into law. While this measure would penalize the smut panderer if he mailed his unwanted materials to anyone seeking a ban, it still



puts the burden on the prospective recipient. As I understand it, it is up to the individual to see that he is listed appropriately with postal officials.

On the other hand, I introduced S. 3220. My bill puts the burden where it belongs—on the peddler and pusher. It would protect a person's right of privacy by requiring that all mailings containing obscene or offensive material be so designated. This would enable the obvious identification of the sender and would also give a person the right to choose and if need be to return the package unopened at the expense of the sender. At the very least, under my proposal, the sender would be more cautious in his mailing methods.

In other words the labeling legislation, as proposed by S. 3220, would give the individual an opportunity to react without being embarrassed or offended. Identification may not be the simplest method, but the problem itself is not simple. I strongly believe it is a step in the right direction—one which protects clearly a basic element in our democratic society, the right of privacy.

I have co-sponsored several other legislative proposals which offer alternative proposals for combating this growth of filth and pornography. I am delighted that these hearings have been scheduled. These Committee deliberations can place the issue in its proper perspective and legislation, hopefully will be agreed upon soon which will provide complete protection for the unsuspecting boxholder and place on the sender the entire responsibility for keeping this material out of the mail.

As I said, my proposal which amends Postal regulations 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 family. 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. Such action would protect, not violate, a person's constitutional rights.

May I say that such 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 for sure 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, the violators of either of these provisions would be met with a penalty of \$5,000.

My proposal is one which I would like to see incorporated into any pornography control measure, whether it be reported by the Senate Judiciary Committee or the Committee on Post Office and Civil Service. The Senate has already taken action in the area of drug control and crime. To a limited extent it has acted against obscenity. I firmly believe that further steps must be taken to meet head-on the issue of mass mailings of obscene materials—especially to minors and the unsuspecting. I wish to thank the Committee for this opportunity and I commend the Chairman and the members for focusing

much needed attention on this vital problem. I wish to offer the Leadership's cooperation in bringing about early legislative action on this most serious issue.

#### THE FIGHT AGAINST PORNOGRAPHY

Mr. WANSFIELD, Mr. President, on yesterday I had the opportunity to appear before the Committee on Post Office and Civil Service and there I spoke on behalf of the bill, S. 3220, introduced by the Senator from Arizona (Mr. Goldwater) and me. It seeks to place on the problem of unsolicited pornography the entire responsibility for keeping this material out of the mail. The bill introduced by the Senator from Arizona (Mr. Goldwater), which I co-sponsored, as did a number of other Senators, took the first step in taking up to the problem of the invasion of the privacy of one's home in this manner—a manner which incidentally puts the U.S. Government through the Post Office Department in the position of being the handmaiden in the delivery of this type of stuff. This must be people who neither desire nor want it—the type of low literature which all too often falls into the hands of children and against which there is not up to this time sufficient protection.

Mr. President, I ask unanimous consent to have printed in the Record the testimony which I gave yesterday on behalf of the Mansfield-Goldwater proposal.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

The Post Office Department, Mr. Chairman and Gentlemen of the Committee: Among the most basic tenets of our nation today are freedom of expression and privacy. Many people talk about these subjects but seem unwilling to do anything to curb them. Many people take Constitutional questions about proposals for the Senate Constitutional questions for the Senate—how do we do with the rights of the accused and the criminal? We must not let the type of pornography that is the subject of the proposed legislation, and those who are subject to receiving unsolicited pornographic literature through the mails, I emphasize the word "unsolicited."

I point out that when this type of low literature comes through the mails, it is delivered to unsuspecting parents and often