

1995

THE MEDIA COALITION, INC.

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January 30, 1995

Sen. Bruce D. Crippen
Senate Judiciary Committee
Capitol Station
Helena, MT 59620

Re: House Bill 83

Dear Senator Crippen,

The members of The Media Coalition believe that House Bill 83, the proposed ban on the sale of obscene material in Montana, will limit the circulation of non-obscene material with sexual content--works that are protected by the First Amendment. They have asked me to explain their concern.

The members of The Media Coalition represent most of the publishers, booksellers, librarians, periodical wholesalers and distributors, recording and video game manufacturers, and recording, video and video game retailers in Montana and the rest of the country. Their members neither produce nor sell obscene material. However, they do disseminate First Amendment-protected books, magazines, recordings, motion pictures and videos with sexual content that could be suppressed if H.B. 83 becomes law.

The members of Media Coalition recognize the right of the legislature to ban obscene material. However, even a constitutional obscenity statute has a chilling effect on the sale of non-obscene material with sexual content. The definition of obscenity set forth by the U.S. Supreme Court is vague. Different people find different things obscene. This vagueness leaves a retailer unsure of what may be legally sold. Faced with the prospect of criminal prosecution if he or she makes a mistake, a law abiding business person will err on the side of caution, removing from sale legitimate works with sexual content.

Recent electoral returns show that most citizens do not favor government interference with their right to choose what they can read, see or hear. In the 1994 elections, voters in Oregon and Colorado were asked to vote on obscenity amendments to their state constitutions. In both states, booksellers, librarians and others ran strong anti-censorship campaigns

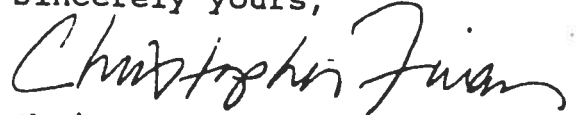
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because they feared the amendments would have a "chilling" effect on non-obscene material with sexual content. As a result of those efforts, the measures in both states were defeated by large margins. In Colorado, 63 per cent of voters rejected the obscenity amendment. In Oregon, where there is no restriction on the sale of sexually explicit material to adults, 56 per cent of voters rejected the attempt to regulate free speech.

Montana citizens have also expressed their opposition to obscenity laws by refusing to avail themselves of the provision of state law that allows counties to adopt obscenity ordinances. The members of Media Coalition urge you to respect home rule and defend the right of free speech by defeating H.B. 83.

Thank you.

Sincerely yours,



Christopher Finan
Executive Director