



# NEWS from U.S. Senator Bob Dole

(R.—Kans.)

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## DOLE AMENDMENT TO CLARIFY OBSCENITY RULE

Washington, D.C. — Senator Bob Dole (R-Kansas) introduced an amendment to the Criminal Code Bill (S. 1437) today that would clarify Federal laws for obscenity prosecutions. The Amendment would allow state and local standards to determine what material is obscene for Federal prosecutions.

The following is the statement made by Sen. Dole upon introduction of the Amendment:

Mr. Dole. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

Section 1842 of S. 1437 substantially rewrites current Federal law on the dissemination of obscene material. The Judiciary Committee stated that the reason for drawing back from current law is that the federal interest in this area is "less urgent and pervasive." The Committee concluded that recent cases have enabled state and localities to prosecute obscenity cases more effectively and thus reduce the need for federal action.

## SUPREME COURT HAS CHANGED VIEWS

The test used by the Supreme Court has for many years required the jury to apply "contemporary community standards." While the word "community" does not seem inherently vague, the Supreme Court has struggled with a proper definition for it. In the cases preceding Miller v. California, the Court interpreted community to mean a national standard. Since the Miller case in 1973, it has been constitutionally permissible to use the state or local community standard.

A subsequent case, Jenkins v. Georgia, held that Miller does not mandate use of state or local standards but merely allows use of such standards. Therefore, the current state of the obscenity standard is that "state or local standards" may be used in the jury instruction but such an instruction is not constitutionally required.

## AMENDMENT CONSISTENT WITH SUPREME COURT DECISION

Section 1842 defines obscene material in accordance with the Miller v. California decision. However, the bill fails to define what "community" is the appropriate "community" for federal obscenity prosecutions. My amendment provides that "community" means the state or local community in which the publication was disseminated. For federal obscenity prosecutions, "community" shall not be interpreted as meaning the nation as a whole. This amendment would allow the citizens of each town the opportunity to decide what publications they feel are obscene.