

The original documents are located in Box D29, folder “International Child Evangelism Fellowship Conference, Calvin College, Grand Rapids, MI, May 25, 1970” of the Ford Congressional Papers: Press Secretary and Speech File at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. The Council donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

19th

INTERNATIONAL CHILD EVANGELISM FELLOWSHIP
CONFERENCE, KNOLLCREST CAMPUS, CALVIN
COLLEGE, GRAND RAPIDS, MICHIGAN,
7 P.M. MONDAY, MAY 25, 1970.

AS IT IS WRITTEN IN PROVERBS:
"TRAIN UP A CHILD IN THE WAY HE SHOULD GO:
AND WHEN HE IS OLD, HE WILL NOT DEPART
FROM IT."

WE ARE ALL HERE BECAUSE WE LOVE
CHILDREN, AND WE ARE HERE BECAUSE WE LOVE
GOD.

IT IS A PLEASURE FOR ME TO JOIN
YOU AT YOUR INTERNATIONAL CONFERENCE, AND
IT IS AN HONOR AND A PRIVILEGE TO BE YOUR
KEYNOTE SPEAKER.

RECENT EVENTS WOULD MAKE IT
APPEAR THAT THESE ARE DARK HOURS THROUGH
WHICH WE ARE PRESENTLY LIVING, AND INDEED
OUR PROBLEMS ARE MAJOR AND MANIFOLD. BUT



I AM BY NATURE CAUTIOUSLY OPTIMISTIC.
AND I AGREE WITH THOSE WHO SAY THAT THE
DARKEST HOURS ARE THOSE WHICH HERALD THE
DAWN.

THE LIGHT IS COMING. LIGHT WILL
SOON BE SHED ON THE PRESSING PROBLEMS
WHICH ARE FACING AMERICANS TODAY -- THE
WAR IN INDOCHINA, THE CONTINUING RISE IN
THE COST OF LIVING, THE CONSTANT RISE IN
THE CRIME RATE

*to the unknown
of our society by those who
moderate our moral standards
by the printing & distribution
of obscene & pornographic material*

HAVE CHOSEN TO TALK WITH YOU
TONIGHT ABOUT THE STAGGERING PROBLEMS

WHICH STILL CONFRONT US IN THE WAR AGAINST
CRIME. BUT LET ME FIRST COMMENT BRIEFLY
ON VIETNAM AND CAMBODIA AND ON INFLATION.

WHETHER OR NOT YOU AGREE WITH
OUR CONTINUED EFFORT TO GAIN SELF-
DETERMINATION FOR THE SOUTH VIETNAMESE,
THE FACT REMAINS THAT OUR ATTACK AGAINST
THE INVADERS OF CAMBODIA -- THE



NORTH VIETNAMESE-- IS PROVING ENORMOUSLY
SUCCESSFUL. WE HAVE SEIZED ENOUGH ENEMY
ARMS TO OUTFIT MORE THAN 70 ENEMY
BATTALIONS OF 500 MEN EACH. WE HAVE
CAPTURED MORE ENEMY AMMUNITION THAN THE
COMMUNISTS WOULD USE IN TWO YEARS. WE
HAVE SEIZED ENOUGH ENEMY RICE TO FEED MORE
THAN 10,000 TROOPS FOR A YEAR. WE HAVE
SET BACK THE ENEMY BY SIX TO EIGHT MONTHS.
WE HAVE SAVED AMERICAN AND SOUTH VIETNAMESE
LIVES. I THINK WE HAVE MADE IT POSSIBLE
TO WITHDRAW MORE THAN 150,000 ADDITIONAL
U.S. TROOPS FROM SOUTH VIETNAM OVER THE
NEXT 12 MONTHS.

ON INFLATION I WILL SAY THAT
THE RESTRAINTS EMPLOYED BY THE ADMINISTRATION
WILL DEFINITELY SHOW RESULTS IN THE MONTHS
AHEAD AND WILL MAKE IT POSSIBLE TO
MODESTLY STIMULATE THE ECONOMY WITHOUT
REVIVING STRONG INFLATIONARY PRESSURES.



I LOOK FOR GOOD PROGRESS IN THE IMMEDIATE
FUTURE.

INSERT

NOW I WOULD LIKE TO TALK WITH
YOU ABOUT ANOTHER MOST SERIOUS PROBLEM IN
AMERICA -- OUR FAILURE TO DEAL EFFECTIVELY
WITH JUVENILE CRIME. I BELIEVE THIS
FAILURE HAS BECOME A NEAR DISASTER FOR
OUR COUNTRY.

ARRESTS OF JUVENILES FOR SERIOUS
CRIME INCREASED 78 PER CENT NATIONALLY
FROM 1960 TO 1968, THE LAST YEAR FOR WHICH
WE HAVE OFFICIAL FIGURES. THE RATE CLIMBS
HIGHER DAILY.

THE STATISTICS ON JUVENILE
CRIME ARE EVEN MORE TRAGIC AND DISTURBING
THAN THOSE FOR CRIME AS A WHOLE.

OF ALL ASPECTS OF CRIME, NONE IS
MORE DISCOURAGING THAN JUVENILE DELINQUENCY.

ONE OUT OF EVERY NINE CHILDREN
WILL BE REFERRED TO A JUVENILE COURT FOR



AN ACT OF DELINQUENCY BEFORE HIS 16TH BIRTHDAY.


NEARLY ONE-HALF OF ALL SERIOUS CRIMES -- MURDER, RAPE, ROBBERY, ASSAULT, BURGLARY, LARCENY, AUTO THEFT -- IS COMMITTED BY PERSONS UNDER 18.

THE MOST ARRESTS ARE OF PERSONS 15 AND 16 YEARS OF AGE.

JUVENILE CRIME ACCOUNTS IN LARGE MEASURE FOR THE NATION'S SOARING CRIME RATE.

ACCORDING TO THE F.B.I., ARRESTS OF YOUTHS UNDER 18 YEARS OF AGE MADE UP MORE THAN HALF OF THE TOTAL NATIONAL CRIME INCREASE OF 122 PER CENT FROM 1960 TO 1968.

WHILE JUST 16 PER CENT OF THE NATION'S POPULATION IS 10 THROUGH 17 YEARS OF AGE, THEY ACCOUNTED FOR 46 PER CENT OF SERIOUS CRIME IN 1968.



ONCE INVOLVED IN CRIME, A JUVENILE IS LIKELY TO COMMIT REPEATED CRIMINAL ACTS. ALL TOO FREQUENTLY HE CROSSES THE THRESHOLD INTO ADULT CRIME.

IN AN EFFORT TO PREVENT JUVENILE CRIME -- AND TO REHABILITATE THOSE WHO SLIP INTO DELINQUENCY, CONGRESS IN 1968 ENACTED THE JUVENILE DELINQUENCY PREVENTION AND CONTROL ACT.

UNDER THIS ACT THE FEDERAL GOVERNMENT PAYS UP TO 90 PER CENT OF THE COST OF ANTI-DELINQUENCY PROGRAMS SPONSORED BY STATE AND LOCAL PUBLIC AGENCIES AND PRIVATE NON-PROFIT ORGANIZATIONS. IT PAYS UP TO 60 PER CENT FOR SPECIAL PURPOSE FACILITIES FOR REHABILITATING DELINQUENT YOUTHS.

THE CAUSES OF JUVENILE CRIME ARE
UNCLEAR. THE METHODS OF PREVENTION ARE
UNCERTAIN. REHABILITATION IN ALL TOO MANY



CASES IS UNSUCCESSFUL.

CERTAINLY THERE IS A PLACE IN
JUVENILE DELINQUENCY PREVENTION FOR CHILD
EVANGELISM, A PLACE FOR THE VITAL PROGRAMS
THAT THE CEF HAS BEEN CARRYING OUT.

A POINT TO REMEMBER IS THAT A
BUSY TEENAGER, IN SCHOOL, PLAYING IN
SPORTS, OR WORKING AT A PART-TIME JOB HAS
NO TIME FOR DELINQUENCY. IT IS ALSO MOST
IMPORTANT THAT GOD BE A PART OF HIS LIFE,
EVEN IF HE IS RELUCTANT TO ADMIT HIM AS A
COMPANION.

IN RECENT YEARS A NEW DEVELOPMENT
HAS MADE THE PROBLEM OF JUVENILE
WAYWARDNESS MORE ACUTE.

DRUG ABUSE HAS EXPLODED ONTO THE
SCENE, WITH DEVASTATING RESULTS. DRUG
ABUSE IN THIS COUNTRY IS MOUNTING AT A
STARTLING RATE, AND THE MOST SHOCKING
ASPECT OF IT IS THE EXTENT TO WHICH IT

INVOLVES THE VERY YOUNG.

BETWEEN 1960 AND 1968 THERE WAS A 322 PER CENT INCREASE IN THE NUMBER OF ARRESTS RELATED TO NARCOTIC DRUGS. BETWEEN 1967 AND 1968 ALONE, THERE WAS A 64 PER CENT INCREASE.

FOR THE YEAR 1968, THE F.B.I.'S UNIFORM CRIME REPORTS INDICATE THAT 162,177 PERSONS WERE ARRESTED BY STATE AND LOCAL AUTHORITIES FOR NARCOTIC AND MARIJUANA DRUG VIOLATIONS.

OF THIS NUMBER, 43,200 WERE UNDER THE AGE OF 18, AND 6,243 WERE UNDER THE AGE OF 15.

THESE FIGURES NEED LITTLE EXPLANATION, EXCEPT TO SAY THAT FOR EVERY INDIVIDUAL APPREHENDED, SCORES OF OTHERS REMAIN UNDETECTED. I MIGHT ADD THAT THE AVERAGE AGE OF ALL THE DRUG VIOLATORS APPREHENDED WAS 21 YEARS.

SO WE ARE DEALING WITH A YOUTH
PROBLEM. THAT MUCH IS CLEAR.

THE APPALLING FACT IS THAT DRUG
ABUSE ARRESTS OF JUVENILES, THOSE 18 OR
UNDER, INCREASED BY 1,860 PER CENT DURING
THE FIRST EIGHT YEARS OF THE 1960'S.

WE CAN ONLY CONCLUDE THAT DRUG
ABUSE IS THREATENING THE HEALTH AND SAFETY
OF OUR SOCIETY.

CONSIDER WHAT HAS HAPPENED IN
NEW YORK -- THE ONLY CITY WHICH HAS
MAINTAINED LONGTERM RECORDS RELATED TO
DRUG ABUSE.

IN THE FIRST FIVE YEARS OF THE
SIXTIES, ABOUT 300 PEOPLE IN NEW YORK CITY
DIED FROM HEROIN-RELATED CAUSES. BUT IN
1969 -- IN JUST THAT 12-MONTH PERIOD ALONE --
MORE THAN 900 PEOPLE DIED OF SUCH CAUSES.
AND OF THESE, 224 WERE TEEN-AGERS --

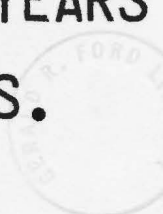


24 OF THEM UNDER THE AGE OF 15. IT IS
REPORTED THAT HEROIN IS IN EVERY HIGH
SCHOOL IN NEW YORK CITY, PUBLIC AND
PRIVATE.

THIS IS JUST ONE INDICATION OF
THE ACCELERATED TREND IN THE USE OF HARD
DRUGS. DRUG ABUSE HAS INCREASED
PHENOMENALLY IN VIRTUALLY EVERY MAJOR
METROPOLITAN AREA, REPORTS SHOW.

WHAT IS MOST WORRISOME IS THAT
THE AGE LEVEL OF DRUG USERS IS CONSTANTLY
DECREASING.

FIVE YEARS AGO, COLLEGE SENIORS
WERE VIRTUALLY THE ONLY STUDENTS ENGAGING
IN MARIJUANA USE. BUT IN JUST TWO OR
THREE YEARS, "POT" SMOKING MOVED DOWN TO
THE FRESHMAN LEVEL AND IN ANOTHER TWO YEARS
IT HAD BECOME A PROBLEM IN HIGH SCHOOLS.
NOW IT IS GETTING INTO THE JUNIOR HIGH
SCHOOLS.



(11)

I WOULD MAKE THE POINT HERE THAT
THE GREATEST DRUG ABUSE OCCURS IN
METROPOLITAN AREAS. THE LEAST DRUG ABUSE
AMONG YOUNG PEOPLE IS FOUND IN RURAL OR
VERY SMALL TOWN SETTINGS.

THE MOST COMMONLY ABUSED DRUGS
INCLUDE HEROIN, MARIJUANA, LSD, AND A
WHOLE HOST OF OTHER SYNTHETIC
HALLUCINOGENS, THE AMPHETAMINES OR PEP PILLS
AND THE BARBITURATES OR SLEEPING PILLS.

LET ME EMPHASIZE THE DANGER TO
OUR YOUTH BY POINTING OUT THAT IN 1968 MORE
THAN ONE-HALF OF THE INDIVIDUALS ARRESTED
FOR NARCOTICS VIOLATIONS WERE PERSONS UNDER
21 YEARS OF AGE. OF THOSE INVOLVED WITH
MARIJUANA, 65 PER CENT WERE UNDER 21 AND
29 PER CENT WERE PERSONS UNDER 18.

WHAT SHOULD BE DONE WITH A CHILD
FOUND USING MARIJUANA? HE CERTAINLY SHOULD
BE ADMINISTERED SOME GOOD FATHERLY
DISCIPLINE. IF THAT FAILS, THE FAMILY
SHOULD SEEK OUTSIDE COUNSELING -- THE FAMILY



PHYSICIAN OR SCHOOL COUNSELOR AND CERTAINLY A CLERGYMAN.


MARIJUANA IS NOT A PHYSICALLY ADDICTIVE DRUG. THE VAST MAJORITY OF PEOPLE WHO EXPERIMENT WITH IT TRY IT FROM ONE TO 10 TIMES AND THEN DROP IT. BUT THERE IS A CORRELATION BETWEEN FREQUENT USE OF MARIJUANA AND THE USE OF OTHER DRUGS. THE CHRONIC MARIJUANA USER BECOMES EXPOSED TO WHAT HAS BECOME KNOWN AS THE DRUG SUBCULTURE. IN THIS ENVIRONMENT, HE IS THROWN TOGETHER WITH PEOPLE WHO USE OTHER DRUGS. AND IT IS A MATTER OF RECORD THAT THE EXPLOSION IN MARIJUANA USE HAS BEEN ACCOMPANIED BY A SHARP RISE IN HEROIN USE.

IT SEEMS REASONABLE TO ASSUME THAT IF MANY INDIVIDUALS DID NOT GET INVOLVED WITH MARIJUANA THEY WOULD NEVER BECOME USERS OF THE MORE POTENT AND DANGEROUS DRUGS.



WE NOW HAVE A DRUG CONTROL BILL BEFORE THE CONGRESS -- IT HAS ALREADY PASSED THE SENATE -- WHICH WOULD MAKE THE SIMPLE POSSESSION OF MARIJUANA A MISDEMEANOR ON THE FIRST OFFENSE. UNDER THIS BILL, THE FIRST OFFENDER COULD BE GIVEN PROBATION BY A JUDGE AND, IF HE COMPLETES HIS PROBATION SATISFACTORILY, HAVE HIS RECORD EXPUNGED. BUT A SECOND OFFENSE WOULD BE JUDGED A FELONY. I EXPECT THE HOUSE TO APPROVE THIS BILL BECAUSE THE NEED FOR NEW LEGISLATION TO DEAL WITH THE DRUG PROBLEM IS WIDELY RECOGNIZED IN THE CONGRESS.

IN THE LONG TERM, I BELIEVE THAT EDUCATION IS THE BEST WAY TO CURB DRUG ABUSE IN THE UNITED STATES. WE NEED TO PERSUADE OUR YOUNG PEOPLE THAT DRUG ABUSE LEADS ONLY TO SELF-DESTRUCTION AND A TERRIBLE HURT FOR MEMBERS OF THE ADDICT'S FAMILY DRUG ABUSE ALSO, OF COURSE,



CONTRIBUTES HEAVILY TO THE CRIME TOLL
THROUGHOUT THE UNITED STATES EACH YEAR.

IT IS ESTIMATED THAT 50 TO 75
PER CENT OF THE CRIMES COMMITTED ON OUR
NATION'S STREETS ARE PERPETRATED BY DRUG
ADDICTS. AND SO ONE STEP WE MUST TAKE IS
A MASSIVE EFFORT TO HALT THE IMPORTATION
OF ILLEGAL DRUGS INTO THE UNITED STATES.
THIS WE ARE TRYING VERY HARD TO DO,
PARTICULARLY AS REGARDS TURKEY AND MEXICO.
IN THE CASE OF TURKEY, FOR INSTANCE, WE ARE
TRYING TO GET THAT COUNTRY TO STOP OPIUM
PRODUCTION, OR AT LEAST TO CONTROL ITS
MANUFACTURE AND DISTRIBUTION.

IF WE CAN ELIMINATE TURKEY AS A
SOURCE OF OPIUM, WE CAN REDUCE THE AMOUNT
OF HEROIN COMING INTO THE UNITED STATES BY
AT LEAST 50 PER CENT. OFFICIALS OF THE
U.S. JUSTICE DEPARTMENT BELIEVE WE CAN REACH
THAT GOAL IN TWO OR THREE YEARS.



LET ME STRESS NOW THAT ALTHOUGH THERE MIGHT SEEM TO BE NO CONNECTION THE DRUG-RELATED STREET CRIMES I CITED A BIT EARLIER ARE DIRECTLY ASSOCIATED WITH ORGANIZED CRIME. IT IS ORGANIZED CRIME -- THE MAFIA -- WHICH MAKES ILLEGAL NARCOTICS AVAILABLE IN LARGE VOLUME IN THE UNITED STATES. THEREFORE MUCH OF OUR STREET CRIME FLOWS DIRECTLY FROM THE ACTIVITIES OF ORGANIZED CRIME.

WHAT ARE WE DOING TO FIGHT CRIME? THERE IS NO QUESTION THAT CRIME CONTROL IS PRIMARILY A STATE AND LOCAL RESPONSIBILITY BUT THERE IS ALSO MUCH THAT THE FEDERAL GOVERNMENT CAN DO TO HELP.

LEGISLATIVELY, HELP WAS PROVIDED IN 1968 AND I HOPE IT WILL BE FORTHCOMING THIS YEAR.

IN 1968 CONGRESS PASSED A LAW WHICH AUTHORIZED FEDERAL GRANTS TO UPGRADE



STATE AND LOCAL POLICE FORCES AND PROVIDE FOR GREATER CRIME CONTROL. CONGRESS THAT YEAR ALSO PASSED THE JUVENILE DELINQUENCY CONTROL ACT I PREVIOUSLY CITED.

THE PRESENT CONGRESS HAS A HOST OF ADMINISTRATION ANTI-CRIME BILLS BEFORE IT, PROVIDING NEW TOOLS TO FIGHT ORGANIZED CRIME, BETTER WAYS TO HANDLE DRUG ABUSE, MORE JUDGES, AND A VARIETY OF OTHER CRIME-FIGHTING WEAPONS.

THE SENATE HAS RESPONDED FAIRLY SWIFTLY BUT HAS WEAKENED SOME ADMINISTRATION PROPOSALS. IN THE HOUSE THERE HAS BEEN SOME FOOT-DRAGGING BY THOSE WHO SEE EVERY STRONG ANTI-CRIME MEASURE AS UNCONSTITUTIONAL. I HOPE ALL OF THE DIFFERENCES WILL BE SOON RESOLVED SO THAT WE CAN STEP UP THE WAR AGAINST CRIME.

SPECIFICALLY IN THE AREA OF JUVENILE DELINQUENCY, THE HOUSE JUDICIARY



COMMITTEE IS CONSIDERING THE FEDERAL YOUTH CORRECTIONS ACT, WHICH WOULD AUTHORIZE THE BOARD OF PAROLE EXAMINERS TO INTERVIEW YOUTHFUL OFFENDERS, AND AMENDMENTS TO THE 1968 OMNIBUS CRIME CONTROL AND SAFE STREETS ACT, WHICH WOULD PROVIDE ADDITIONAL FUNDING TO IMPROVE STATE AND LOCAL CORRECTIONAL FACILITIES FOR JUVENILES.

I HAVE CITED SOME GRIM STATISTICS ON CRIME, AND ONE COULD EASILY FEEL OVERWHELMED BY THEM. BUT THERE ARE A FEW BRIGHT NOTES IN THE SITUATION, THERE IS A BREAK IN THE CLOUDS.

IN 1969, FOR INSTANCE, THE RISE IN THE CRIME RATE SLOWED CONSIDERABLY. WHERE THE CRIME RATE HAD CLIMBED BY 17 PER CENT IN 1968, THE RATE OF INCREASE SLOWED TO 11 PER CENT LAST YEAR.

IN THE CASE OF JUVENILES REFERRED TO JUVENILE COURT JURISDICTION, THE RATE



DROPPED IN 1968 FOR THE SECOND YEAR IN A
ROW -- FROM 49 PER CENT TO 46.

WHAT THIS TELLS US IS THAT THE
TASK IS NOT HOPELESS. WE HAVE MADE SOME
PROGRESS, AND WE WILL MAKE MORE.

WE MUST PERSIST IN THE FIGHT
AGAINST CRIME, AND THE AMERICAN PEOPLE MUST
JOIN THE CONGRESS AND ALL OF OUR STATE AND
LOCAL LAW ENFORCEMENT AGENCIES IN COMBATTING
IT.

AS FOR GROUPS LIKE THE CHILD
EVANGELISM CONFERENCE, THERE IS NO
QUESTION THAT THEY CAN PLAY A USEFUL ROLE.

WE KNOW THAT A CHILD FORMS HIS
OPINIONS AND HIS OUTLOOK UPON LIFE DURING
HIS EARLY YEARS. WE KNOW THAT HIS EARLY
INSTRUCTION AND THE GUIDANCE GIVEN HIM IN
MATTERS OF MORALS ARE MOST IMPORTANT IN
DETERMINING HOW HE WILL CONDUCT HIMSELF
IN LATER LIFE. WE KNOW THAT THE COURSE OF

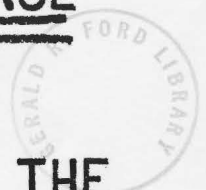


A MAN'S ENTIRE LIFE OFTEN IS CHARTED DURING HIS CHILDHOOD YEARS.

AND SO THOSE OF US IN OTHER
FIELDS OF ENDEAVOR LOOK TO CHILD
EVANGELISM TO REACH OUT AND HELP OUR
CHILDREN -- TO GIVE THEM THE GREAT GUIDANCE
THAT FLOWS FROM THE TRUTHS OF CHRISTIANITY
AND THE WISDOM OF ITS FOUNDER, JESUS
CHRIST.

CHILD EVANGELISM REACHES CHILDREN BECAUSE IT APPROACHES THEM ON A LEVEL THEY CAN UNDERSTAND. IT OFFERS THEM GUIDANCE, IT OFFERS THEM STRENGTH. IT OFFERS THEM THE EMOTIONAL SECURITY WITHOUT WHICH EVERY MAN IS LOST.

SO TO THE MEN AND WOMEN OF THE CHILD EVANGELISM CONFERENCE I SAY CONTINUE AND EXPAND YOUR WONDERFUL WORK, KNOWING THAT YOU ARE HELPING US ALL -- NOT ONLY THE LITTLE CHILDREN BUT EVERYONE IN THIS GREAT



LAND OF OURS.

-- END --



Jerry:

~~I did not include it in the speech but you may~~
~~want to mention to the Child Evangelism people that~~ ^T~~the~~
House recently passed a measure to keep sexually-oriented
material from being mailed to minors. The bill is identical
in concept to one you introduced. ~~It~~ It forces those
who exploit sexual ~~sensationalism~~ ^{sensationalism} to purchase a list of
persons who do not wish to receive sexually-oriented mail,
mailing
and prohibits ~~mailing~~ to those individuals. The bill
provides strong penalties for indiscriminate mailing of
such material to those who do not want it.####



Obscenity

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK

Legislation to Bar Sexually Oriented Materials
from the Mails and Interstate Commerce

By THE COMMITTEE ON FEDERAL LEGISLATION

Congress has been besieged recently by communications calling for bills to control the flow of allegedly obscene publications,¹ and it has responded with a correspondingly large number of bills. The President, in a message delivered in May 1969, stated that "American homes are being bombarded with the largest volume of sex oriented mail in history." He stated that he had asked the Attorney General and the Postmaster General to submit to Congress three new legislative proposals. He described them as measures which would prohibit use of the mails to send unsuitable material to minors; bar use of the mails or interstate facilities to advertising intended to appeal to a "prurient interest in sex"; and prohibit, as an invasion of privacy, mailing of sexually oriented advertising to one who had filed a statement that he did not wish to receive it.

The first two of the measures proposed by the President are embodied in the following bills:

H.R. 11031 (also S. 2073)—to prohibit the use of interstate facilities, including the mails, for the transportation of certain material to minors.

H.R. 11032 (also S. 2074)—to prohibit the use of interstate facilities, including the mails, for the transportation of salacious advertising.

The third measure, to protect the privacy of unwilling recipients of unsolicited advertising, is combined in H.R. 10867 with a proposal to exclude from the mails "certain obscene material sold or offered for sale to minors."²

This report deals with these three bills, which appear to be those in which the Congress has shown the greatest interest.³

All three of these proposed bills present serious constitutional issues under the First Amendment. They also raise policy issues as to the role appropriately played by the Federal Government in controlling the content of materials transmitted through the mails.

These issues should be considered against the background of the present law. The Comstock Act (18 U.S.C. §1461) makes it a Federal criminal offense to mail obscene matter or any advertisement which gives information as to where such matter may be obtained.⁴ Under *Roth v. United States*, 354 U.S. 476 (1957), and the cases which have followed it, that statute may be constitutionally applied only to "material with regard to which three elements coalesce." According to the Supreme Court:



It must be established that (a) the dominant theme of the material taken as a whole appeals to a prurient interest in sex; (b) the material is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters; and (c) the material is utterly without redeeming social value. *Memoirs v. Massachusetts* (the "Fanny Hill" case), 383 U.S. 413, 418 (1966).

In a close case, the mailing of material which would otherwise not be obscene within the three-part *Fanny Hill* test may be held to violate the statute by reason of the pandering manner in which it is exploited. *Ginzburg v. United States*, 383 U.S. 463 (1966). The cases apply the same test to Federal and State legislation.

The test for minors is somewhat different. Some 39 States have adopted some type of measure specifically designed to prohibit the exposure of obscene material to minors.⁵ In upholding a State statute restricted to minors, the Court has adopted a "variable obscenity" concept under which the three-fold test is applied from the standpoint of minors. It affirmed a conviction for the sale of material which, although not obscene for adults, had been found, taken as a whole, to appeal to the "prurient, shameful or morbid interest of minors," to be offensive to prevailing community standards for minors and to be utterly without redeeming social importance to minors. *Ginsberg v. New York*, 390 U.S. 629 (1968).

Congress has recently sought to control the distribution of sexually stimulating materials which are offensive to some people but not obscene. The theory has been that of protecting privacy. In 1967 Congress enacted the measure known as the Pandering Advertisement Act (39 U.S.C. §4009). Under that law, anyone who has received an advertisement which he, in his sole discretion, "believes to be erotically arousing or sexually provocative" may give notice to that effect to the Postmaster General. An order is then issued to the sender directing him to refrain from further mailings to the same addressee and to delete that name from all mailing lists owned or controlled by the sender. On finding that such an order has been violated, the Postmaster General may request the Attorney General to seek a court order directing compliance.

The constitutionality of this Act has been upheld by a three-judge court in California,⁶ and an appeal from that decision has recently been argued in the Supreme Court.⁷

The intense interest in seeking further legislation undoubtedly reflects genuine dissatisfaction with the adequacy of the existing laws to cope with material which many people find offensive.⁸ The dissatisfaction would seem to be based primarily upon the premise that exposure to certain publications relating to sex is harmful to minors. That premise is a subject of sharp dispute on which experts as well as others disagree, and this committee takes no position as to its validity. We are greatly concerned, however, to avoid threatened encroachments on the full freedom of communication which is guaranteed by the First Amendment. And we proceed on the assumption that "the hoary dogma . . . that the use of the mails is a privilege on which the Government may impose such conditions as it chooses, has long since evaporated."⁹

We will consider first the proposals which relate to minors. Assertedly offensive advertising matter involves different considerations, and proposals relating to it will then be considered separately.

THE BILLS RELATING TO MINORS

Both H.R. 11031 and the first section of H.R. 10867 embody definitions of material that is obscene for minors which would affect a greater range of materials than the State statute which was upheld in *Ginsberg v. New York*, *supra*. We think it plain that both bills would inevitably restrict the distribution to adults of non-obscene, and hence constitutionally protected, material. Both of them illustrate the difficulty which we believe to be inherent in any effort to apply Federal legislation, as distinct from State legislation, to restrict distribution to only a portion of the population.

H.R. 11031 (S. 2073)

This bill would add to the Criminal Code a new section containing five subsections:

(a) It defines a "minor" as a person under the age of 18 years. Its definition of "matter that is harmful to minors" reads:

"matter that is harmful to minors" means a book, magazine, pamphlet, sheet, card, photograph, drawing, film, slide, recording, or other thing constituting or containing visual, verbal, or auditory material that depicts, describes, or represents, in actual or simulative [sic] form, nudity sexual conduct, or sadomasochistic behavior and which is—

- (A) offensive to prevailing standards in the adult community concerning what is suitable material for minors; and
- (B) substantially without redeeming social value for minors.

(b) The prohibitory provision reads:

No person shall knowingly deposit in the mail, or transport in interstate or foreign commerce, for delivery to a minor, matter which is harmful to minors, or matter constituting or containing an advertisement therefor or information as to where or how such matter may be obtained.

(c) It is provided that, if matter which is harmful to minors or which constitutes an advertisement for it or information as to where or how it may be obtained is deposited in the mail or transported in commerce "to a residence in which a minor permanently resides," such deposit or transportation shall be deemed to have been for delivery to such minor "unless contained in a sealed envelope or sealed wrapper that completely conceals the contents and clearly, specifically and personally addressed to an adult who resides at such residence."

(d) It would be an affirmative defense that the defendant reasonably believed that the addressee of the matter "was an adult residing at the address shown on the sealed envelope or sealed wrapper." That belief may be based

on a purchase order or other declaration reasonably believed to be from an adult.

(e) Violation of the measure would be punishable by a fine of not more than \$50,000 or imprisonment for not more than five years, or both, for the first offense. Both the maximum fine and the maximum term of imprisonment would be doubled for subsequent offenses.

It will be noted that the definition of "matter that is harmful to minors" omits the element of a predominant appeal to "prurient, shameful or morbid interest," as well as the qualifying phrase, "taken as a whole"; and that the *Ginsberg* condition that the material be "utterly without redeeming social importance to minors" is changed to "substantially without redeeming social value to minors." Under this more inclusive standard for determining what matter is objectionable, any representation of nudity or sexual conduct found to be offensive to prevailing standards in the adult community as to what is suitable for minors would be proscribed although the element of appeal to "prurient, shameful or morbid interest" was lacking, even if that representation was but an incidental part of the publication and even if the work had some redeeming social value for minors which a jury could find to be less than substantial.

Whether the lower constitutional standards of H.R. 11031 would pass muster in the courts if its operation were limited to minors need not be decided, since we think it plain that the purported limitation of the measure to minors is utterly unreal. Where the First Amendment is concerned, a criminal measure must require *scienter*. *Smith v. California*, 361 U.S. 147 (1959). That requirement is eliminated by subsection (c), which is at the heart of the bill. The need for a specific intent to bring about delivery of the material to a minor is removed by the provision that such intent "shall be deemed" to have existed unless the material is sealed and specifically addressed to an adult. The inevitable effect of this provision would be to impose a drastic restraint upon the use of the mails and interstate commerce for the distribution to adults of material which is concededly entitled to constitutional protection.

The cases dealing with presumptions in criminal statutes establish the invalidity of subsection (c). For such a presumption to be valid, there must be a plain, rational connection, based on common experience, between the facts proved and the ultimate fact which is presumed. *Tot v. United States*, 319 U.S. 463, 467-68 (1943); *United States v. Gainey*, 380 U.S. 63, 66 (1965); *Leary v. United States*, 395 U.S. 6 (1969). The present bill does more than create a presumption. By subsection (c), the Congress would declare that the mailing of a document to a residence in which a minor permanently resides "would be deemed" to have been a mailing for delivery to such minor. It would not even be necessary that the actor know that there was a minor permanently residing in the residence. The declared connection between the proven facts and the conclusion which would be drawn therefrom is arbitrary.

To overcome subsection (c), the "sex oriented" matter defined in the bill

would have to be mailed in a sealed envelope or wrapper specifically addressed to an adult. The affirmative defense that the sender reasonably believed that the addressee was an adult would be difficult to sustain. The measure would impose an excessive burden on the distribution to adults of non-obscene material. It is immaterial that the prohibition is not absolute. Where First Amendment rights are concerned, regulatory measures may fall far short of complete suppression but still constitute unconstitutional restraints, and they are not saved by a purpose to protect the morals of minors. *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963); *Interstate Circuit v. Dallas*, 390 U.S. 676 (1968).

This measure, moreover, bars the mailing not only of matter which is "harmful to minors" but also of any publication containing an advertisement for such materials or containing information as to where or how they may be obtained. Under such a prohibition, the recent advertisements for the erotic prints of Picasso, widely carried in magazines and newspapers, could conceivably lead to criminal penalties against all those magazines and newspapers. Whether or not under prevailing standards in the adult community the Picasso prints are deemed "suitable material for minors," this bill would impose a drastic restraint upon distribution to the adult community of material which is protected under the test of *Roth* and *Fanny Hill*. For the reasons stated below in discussing the bills directed at advertisements, we believe that such a restraint would itself violate the First Amendment.

H.R. 10867

The portion of this bill dealing with minors would add a new section (§4011) to Chapter 51 (relating to nonmailable matter) of Title 39 of the United States Code, to be entitled "special category of nonmailable matter with respect to minors." Such nonmailable matter would consist of:

- (A) any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body, which depicts nudity, sexual conduct, or sado-masochistic abuse in a manner designed primarily to appeal to the prurient interests of the viewer; or
- (B) any book, magazine, or other printed matter, however reproduced, or any sound recording, which—
 - (i) depicts nudity, sexual conduct, or sado-masochistic abuse or contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sado-masochistic abuse; and
 - (ii) is designed primarily to appeal to the prurient interests of the reader or listener.

A "minor" is defined as a person under the age of 16 years. There are specific definitions of "nudity" (display of genitals or pubic area), "sexual conduct," "sexual excitement," and "sado-masochistic abuse."

The circumstances under which the matter so defined would be placed in "a special category of nonmailable matter with respect to minors" are set forth in the opening portion of the new section:

The mails may not be used—

(1) to make to a minor a sale, delivery, or distribution, or an offer for a sale, delivery or distribution, of any matter described in this section; or

(2) to make to any person not a minor but with whom a minor resides a delivery or distribution, or an offer for sale, delivery, or distribution, of any matter described in this section, if the delivery or distribution or offer for sale, delivery, or distribution is unsolicited by the person not a minor but with whom the minor resides.

It is apparent that (1) what would be excluded from the mails includes non-obscene material and (2) the measure would materially restrict the delivery of such material to adults. The bill does not contain a pretense of meeting the *scienter* requirement. Anyone seeking to distribute the defined material without prior solicitation could not possibly limit the distribution to persons with whom no minor was residing. Such a reduction of mailable matter to "only what is fit for children," *Butler v. Michigan*, 352 U.S. 380, 383 (1957), cannot be squared with the First Amendment. Furthermore, the measure would effectively close the mails to unsolicited offers to deliver non-obscene material to adults, raising the issue that is considered below in the discussion of the advertising bills.¹⁰

* * *

Thus both the foregoing proposals purporting to protect minors exhibit the same weakness. Such proposals point up the difficulty, if not impossibility, of using the regulatory power over the mails (and, in the case of H.R. 11031, over interstate commerce) to restrict distribution to minors without substantially burdening constitutionally protected communication to adults. The necessary distinction can be made in State legislation, like that upheld in *Ginsberg v. New York*, which reaches direct dealings between the parties. Even if the present bills were amended to embody the *Ginsberg* definition of obscenity, however, the problem of isolating mailed material addressed to minors would remain. We do not believe that the "variable obscenity" concept can effectively be adapted to Federal legislation of this character.¹¹

THE BILLS RELATING TO ADVERTISING MATTER

The President's proposal to prohibit all mailing and interstate transportation of "prurient advertising" is embodied in the second of the Dirksen bills, H.R. 11032 (S. 2074). H.R. 10867, which we have just discussed with respect to its provisions on minors, embodies the "invasion-of-privacy" principle referred to by the President, under which the mailing of "sexually oriented advertisements" to unwilling recipients would be barred. The provisions of

both proposals will be set forth before we discuss the considerations of constitutionality and policy which they present.

H.R. 11032 (S. 2074)

This bill is short and simple. It would add a section to the Criminal Code reading:

No person shall knowingly deposit in the mail, or transport in interstate or foreign commerce, an advertisement or solicitation designed or intended to appeal to a prurient interest in sex.

Whoever violates this section shall be fined not more than \$50,000, or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than \$100,000, or imprisoned not more than ten years, or both, for a subsequent offense.

H.R. 10867

Two new sections, 4012 and 4013, would be added to Title 39 of the United States Code, the Postal Service title.

Section 4012 would require the Postmaster General to maintain a list of the names and addresses of those persons who do not wish to receive sexually oriented advertisements. The list would be "available to any person, upon such reasonable terms and conditions as he (the Postmaster General) may prescribe, including the payment of such service charge as he determines to be necessary to defray the costs of compiling and maintaining the list, keeping it current, and making it available." It would be illegal to mail any sexually oriented advertisement to any person whose name and address has been on the list for more than thirty days.

The section would also require mailers of sexually oriented advertisements to place on the cover or envelope of the material both their names and addresses and "such mark or notice as the Postmaster General may prescribe."

The bill defines "sexually oriented advertisement" as:

any advertisement that depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing. Material otherwise within the definition of this subsection shall be deemed not to constitute a sexually oriented advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

Finally, section 4012 would prohibit the sale, lease or exchange of any list compiled by the Post Office, or the use thereof, except for the purpose expressly authorized by the bill.

Section 4013 would provide for judicial enforcement of the prohibitions contained in section 4012. It empowers the Postmaster General to request

the Attorney General to commence a civil action against any person who the Postmaster General believes is violating section 4012. While the action is pending, the Court, "upon application therefor by the Attorney General and upon a showing of probable cause to believe the statute is being violated," would be empowered to issue temporary restraining orders or preliminary injunctions

including, but not limited to, provisions enjoining the defendant from mailing any sexually oriented advertisement to any person or class of persons, directing any postmaster to refuse to accept such defendant's sexually oriented advertisements for mailing, and directing the detention of the defendant's incoming mail by any postmaster pending the conclusion of the judicial proceedings.

If the court found a violation of section 4012, it could issue the following orders, among others: (1) directing the defendant to cease mailing the offensive advertisements "to a specific addressee, to any group of addressees, or to all persons"; (2) directing the post office to refuse to accept defendant's sexually oriented advertisements for passage through the mails; and (3) after the defendant has had an opportunity to examine incoming mail, "and to obtain delivery of mail which is clearly not connected with activity alleged to be in violation of section 4012," directing the post office to return defendant's mail to its senders with an indication that it is in response to mail violative of section 4012.

In addition to the foregoing civil sanctions, the bill would add a section to the Criminal Code (Title 18, U.S.C.) making criminal: the use of the mails in violation of the measure; the wilful violation of any regulation of the Postmaster General issued thereunder; or any sale of a list maintained by the Postmaster General, or use thereof for an unauthorized purpose.¹² The maximum penalty is a fine of \$5,000 or imprisonment for five years, or both, which would be doubled for a second or subsequent offense.

Another section to be added to the Criminal Code would provide that (1) evidence obtained by reason of compliance with this bill by a natural person shall not be used against that person in a criminal proceeding, and (2) the performance of any act in compliance shall not be deemed an admission of any fact.

* * *

These two measures are defended on the ground that commercial advertising is not protected by the First Amendment.¹³ As applied to advertisements for material which is so protected, that position is untenable. Whatever may be the scope of permissible legislative interference with advertisements for ordinary articles of commerce,¹⁴ restraints on advertisements for books and motion pictures obviously inhibit the distribution of such constitutionally protected forms of expression. "This would deprive such materials, which might otherwise be entitled to constitutional protection, of a legitimate and recognized avenue of access to the public."¹⁵

Since a non-obscene "advertisement or solicitation" for protected material is itself protected by the First Amendment regardless of its commercial

character, H.R. 11032 is plainly unconstitutional. It would impose an outright prohibition upon the mailing of advertisements "designed or intended to appeal to a prurient interest in sex" without regard to the elements of patent offensiveness to community standards or lack of redeeming social value. The President, in his message, referred to such advertisements as "pandering," and the proposal is obviously inspired by the decision in *Ginzburg v. United States, supra*. We believe that reliance on that case is misplaced. The Court there considered the pandering character of the advertisements to resolve a borderline issue as to the obscenity of the publications being advertised. It did not consider whether advertisements as such are entitled to First Amendment protection.

The constitutionality of the proposal to protect privacy embodied in H.R. 10867 depends upon a weighing of two competing considerations: privacy and uninhibited communication. The measure would not impose an outright prohibition on the mailing of any particular matter. It seeks to enable individual recipients to protect their privacy by enabling them to cut off the receipt through the mails of material which they consider offensive. It would not prohibit the mailing of any material until an individual had notified the Postmaster General that he does not wish to receive material of that character. The Post Office would then take action only for the purpose of protecting that individual's privacy by insuring that such mail is not sent to him. The objective is similar to that of the many local ordinances which prohibit house-to-house canvassing of home owners who do not desire such solicitation. Such an ordinance, prohibiting house-to-house canvassing by solicitors "not having been requested or invited" by the occupants, was upheld in *Breard v. Alexandria*, 341 U.S. 622 (1951), against a challenge under the First Amendment by a magazine salesman. The majority stated that the First Amendment issue turned "upon a balancing of the conveniences between some householders' desire for privacy and the publisher's right to distribute publications in the precise way that those soliciting for him think brings the best results". 341 U.S. at 644. Justices Black and Douglas dissented, although stating that the ordinance would be valid when applied to a salesman of "pots".

While the invasion of privacy by an unwelcome solicitor is greater than that from delivery of a piece of mail that can be dropped in the wastebasket, the *Breard* decision lends support to the position that Congress may act to enable individuals to bar undesired advertisements from their mailboxes. That type of privacy protection, in an area which the States cannot reach, can be afforded only by Federal legislation.

On the other hand, it must be recognized that any legislation in this area would restrict to some degree the distribution of material which is protected by the First Amendment. The definition of a "sexually oriented advertisement" in H.R. 10867 embraces advertisements quoting from marriage manuals, as well as from works which are generally recognized as great literature. Vagueness also results when judicial tests of obscenity are abandoned. It would impose a heavy burden on a disseminator to try to determine at his peril whether any particular advertisement was covered by the statutory

definition, particularly since that definition has not been marked out by judicial guide posts.

Furthermore, H.R. 10867 places significant financial burdens on disseminators which are not necessary to accomplish the Congressional purpose. The requirement that they pay a fee for access to the Postmaster's list and the authority given the Postmaster to require that a distinctive marking be placed on the material covered by the statute seem particularly objectionable.¹⁶ Finally the administrative remedy provided in the bill that an offender may be barred from future use of the mails for any sexually oriented advertisements, even including those which are constitutionally protected, mailed to willing recipients and unrelated to his prior offense, imposes a drastic penalty.

For all these reasons, H.R. 10867 in its present form must be disapproved. It is our conclusion, however, that if any Federal legislation is to be enacted to limit the distribution of these materials, the approach taken by H.R. 10867 is the one which shows the most promise. For it seeks only to enforce the right of privacy of individuals who voluntarily determine they do not wish to receive objectionable material and imposes no restraint on communication to non-objecting recipients. It also covers an area where Federal action is the most justified since the mails have become a substantial route for dissemination of this type of material, and one which the States have no power to regulate.

A statute similar to H.R. 10867 could be more narrowly drawn so as to impose minimum burdens on disseminators while still protecting unwilling recipients from the kind of material which they find objectionable. Such a statute would require the Postmaster to make available free of charge and at a single, convenient location the names of all those who notified him that they did not wish to receive material which came under the *Ginsberg* test of variable obscenity as to minors. The wilful mailing of such material to any person whose address had been on the list for more than 30 days could be made a crime and also result in appropriate administrative remedies. Such a statute would more easily enable disseminators to determine which materials it applied to by adopting the standards developed by the courts. It would impose an insubstantial burden on disseminators to check their mailing lists against the Postmaster's master list.

Other improvements along similar lines are contained in a proposal embodied in the tentative draft of a statute that is appended to the Progress Report, issued in July 1969, of the Commission on Obscenity and Pornography which was created under an act of Congress passed in 1967.¹⁷ That measure contains a broad definition of "potentially offensive sexual material." It would require that every mailer of such material place on the envelope or wrapper a symbol prescribed by the Postmaster General, and would require that official to devise and implement procedures to prevent the delivery of mail bearing the symbol to those who had given notice that they do not wish to receive unsolicited material of that character. Failure to place the symbol on unsolicited potentially offensive material would subject the mailer to criminal penalties, but that relatively simple requirement does not

impose the trouble and expense which would be involved in compliance with H.R. 10867.

While it is impossible to predict whether proposals of this kind would survive constitutional challenge, we conclude that they would have the best chance of meeting judicial scrutiny and would constitute the most defensible form of Federal intervention in this area, if there is to be any Federal intervention at all.

More light may be shed on this constitutional issue when the Supreme Court adjudicates *Rowan v. Post Office Dept.*, which is now pending before it on the validity of the Pandering Advertisement Act of 1967. The 1967 Act is narrower than the modification of H.R. 10867 previously discussed in that only the particular disseminator who had previously sent material to an objecting recipient would be barred from sending additional material. Undoubtedly one of the reasons for Congressional interest in a broader statute is concern that the 1967 Act is so limited that it does not afford adequate protection to objecting recipients, particularly in light of the common practice of selling mailing lists from one disseminator to another. A broader statute, such as the modification of H.R. 10867 previously discussed, would protect an objecting recipient from all disseminators of the same type of material. Whether it would be constitutional may be clearer after the Supreme Court decision in *Rowan*.

To the extent that the advertisements referred to in the President's message and in the complaints to Congress are themselves obscene under the *Roth-Fanny Hill* test, they may, of course, be the basis of criminal prosecutions under the present statute. Even if not themselves obscene, their pandering character may, under *Ginzburg*, support prosecutions for the sale of the works which they are designed to promote. Certainly the mailing of much of the material which has provoked the present rash of bills is now illegal. If the current drive by the Department of Justice¹⁸ shows that the criminal sanction under the present law is inadequate, consideration might be given to administrative measures against the obscene material which is now illegal, particularly with respect to mailings from abroad which cannot be reached by criminal prosecutions.

We believe that there is great danger, however, in any measure that would apply to the distribution of material which fails to meet the threefold obscenity standard adopted by the Supreme Court. A prosecutor authorized to proceed against any sexually oriented advertising may well consider himself empowered, if not compelled, to take action which could materially inhibit the distribution of significant works of literature such as "Ulysses." In *Manual Enterprises, Inc. v. Day*, Mr. Justice Harlan wrote:

To consider that the "obscenity" exception in "the area of constitutionally protected speech or press," *Roth*, at 485, does not require any determination as to the patent offensiveness *vel non* of the material itself might well put the American public in jeopardy of being denied access to many worthwhile works in literature, science, or art. For one would not have to travel far even among the acknowledged masterpieces in any of these fields to find works whose "dominant theme"

might, not beyond reason, be claimed to appeal to the "prurient interest" of the reader or observer. We decline to attribute to Congress any such quixotic and deadening purpose as would bar from the mails all material, not patently offensive, which stimulates impure desires relating to sex. Indeed such a construction of §1461 would doubtless encounter constitutional barriers. 370 U.S. at 487.

CONCLUSION

We oppose enactment of all of the pending Congressional bills discussed above. While we do not take a position at this time on the desirability of any Federal legislation in this area, we suggest that if any such legislation is enacted, it be only for the purpose of protecting an objecting individual's right to privacy with the minimum possible burden imposed on disseminators.

February 2, 1970

COMMITTEE ON FEDERAL LEGISLATION

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

SHELDON H. ELSER, *Chairman*

JOHN F. CANNON	THOMAS V. HEYMAN
HARVEY P. DALE	DAVID M. LEVITAN
NANETTE DEMBITZ (Hon.)	ARTHUR L. LIMAN
AMBROSE DOSKOW	JEROME LIPPER
MICHAEL S. FAWER	JOHN LOWENTHAL
JOHN D. FEERICK	JAMES H. LUNDQUIST
PETER M. FISHBEIN	MICHAEL G. MARKS
MAHLON FRANKHAUSER	EDWARD A. MILLER
ROBERT L. FRIEDMAN	ALAN PALWICK
ROBERT J. GENIESSE	WILLIAM B. PENNELL
R. KENT GREENAWALT	LEONARD B. SAND
CONRAD K. HARPER	IRVING YOUNGER (Hon.)

FOOTNOTES

¹ The New York Times for November 3, 1969, p. 35, quotes one Congressman as having said that "he was receiving more mail from outraged constituents on the growth of pornography than on any other subject in his sixteen years in Congress."

² The same privacy measure is included in H.R. 10877, which contains a proposal to increase postal rates.

³ The House Judiciary Committee is currently holding hearings on H.R. 11031 and H.R. 11032. Both S. 2073 and S. 2074 were reported without hearings by the Juvenile Delinquency Subcommittee to the Senate Judiciary Committee. Hearings are to be held on the two bills shortly. H.R. 10867 has been the subject of hearings before the Subcommittee on Postal Operations of the House Committee on Post Office and Civil Service.

⁴ The pertinent portion of the statute reads:

Every obscene, lewd, lascivious, indecent, filthy or vile article, matter, thing, device, or substance; and—

...

Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made . . .

Is declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

Whoever knowingly uses the mails for the mailing, carriage in the mails, or delivery of anything declared by this section to be nonmailable, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, or knowingly takes any such thing from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined not more than \$5,000 or imprisoned not more than five years . . .

⁵ Statement of Senator Goldwater, The Congressional Record, November 21, 1969, p. S. 14834.

⁶ *Rowan v. United States Post Office Dept.*, 300 F. Supp. 1036 (C.D. Calif. 1969).

⁷ *Rowan v. United States Post Office Dept.*, No. 399, October Term 1969, probable jurisdiction noted, 38 U.S.L. Week 3153 (10/26/69), argued, 38 U.S.L. Week 3278 (1/22/70).

⁸ That concern is reflected in a finding which would be made by Congress that is embodied in both H.R. 10867 and H.R. 10877.

⁹ *Roth v. United States*, 354 U.S. 476, 504, fn. 5 (1957) (Harlan, J.).

¹⁰ The sanction for violation of this portion of the bill is unclear. Reference to the proscribed matter would be inserted in 39 U.S.C. §4006, which gives the Postmaster General authority to return letters to the sender marked "unlawful." A section making the mailing of "sexually oriented advertisements" criminal contains a reference to Section 4011 which is obviously intended to relate to the advertising Section, 4012. (That Section is numbered 4011 in H.R. 10877.)

¹¹ An effort to adapt the New York statute to a Federal measure is embodied in S. 2676, introduced by Senator Tydings for 20 senators, on which there has been no committee action. That bill would exert the Federal commerce power to its extreme limit so that it would reach local sales to minors of material which "has been or will be shipped in interstate commerce or by the United States mails." It would also prohibit the sale to minors of tickets to see a motion picture which had been shipped in interstate commerce and which is obscene for minors under the *Ginsberg* test.

¹² See footnote 10 *supra*.

¹³ Statement of Assistant Attorney General William H. Rehnquist before Subcommittee No. 3 of the Committee on the Judiciary, House of Representatives, September 25, 1969.

¹⁴ Cf. *Valentine v. Chrestensen*, 316 U.S. 52 (1942).

¹⁵ *Manual Enterprises, Inc. v. Day*, 370 U.S. 478, 493 (1962) (Harlan, J.).

¹⁶ The Supreme Court has repeatedly applied the rule that "inhibition as well as prohibition against the exercise of First Amendment rights is a power denied to government". *Lamont v. Postmaster General*, 381 U.S. 301, 309 (1965) (concurring opinion of Brennan, J.); see *Smith v. California*, 361 U.S. 147 (1959); *Speiser v. Randall*, 357 U.S. 513 (1958).

¹⁷ The Commission was appointed by President Johnson in January 1968 pursuant to Public Law 90-100. Its final report is due by July 31, 1970. Since the Commission's proposed draft is itself only tentative at present, our comments in the text do not constitute an endorsement of that draft but are included to illustrate a possible alternative to the bills now pending. We defer fuller consideration of the Commission's draft until its final report has been issued.

¹⁸ See Statement of Senator Goldwater, Congressional Record, November 21, 1969, p. S. 14834.

PROTECTION OF MINORS AND OF RIGHT OF PRIVACY
FROM SEXUALLY ORIENTED MAIL

MARCH 16, 1970.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. NIX, from the Committee on Post Office and Civil Service,
submitted the following

REPORT

(together with

INDIVIDUAL VIEWS)

[To accompany H.R. 15693]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 15693) to amend title 39, United States Code, to exclude from the mails as a special category of nonmailable matter certain material offered for sale to minors, to protect the public from the offensive intrusion into their homes of sexually oriented mail matter, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

H.R. 15693 has two purposes—the protection of those under 17 from mailings harmful to minors and the protection of the privacy of those mail patrons who do not want to receive sexually oriented advertising.

BACKGROUND

H.R. 15693 is a bill developed by the committee and is based, with certain changes, on H.R. 10867 introduced by Mr. Dulski, Mr. Nix, Mr. Corbett, Mr. Cunningham, and Mr. Rogers of Florida on May 5, 1969.

Title I of H.R. 15693 is similar to the provisions of a new section 4011 of title 39, United States Code, included in H.R. 10867 and H.R. 12030 introduced by Mr. White. There are two differences, however.

In the definitions of a proposed new section 4011 of title 39, United States Code, a definition of the term "harmful to minors" has been added to the five definitions contained in H.R. 10867. This term is defined in three elements. It comprises matter that (1) is of predominant appeal to prurient interest, (2) is offensive to prevailing standards in the adult community concerning what is suitable material for minors, and (3) is substantially without redeeming social value. The word "substantially" has been adopted from a like standard in H.R. 11031, introduced at the administration's request by Mr. McCulloch, which bill is now before the Committee on the Judiciary.

Criminal penalties identical to those in H.R. 10867 are provided for as sanctions in H.R. 15693, in contrast to administrative sanctions under section 4006 of title 39, United States Code. Section 4006 was declared unconstitutional by a lower Federal court subsequent to the introduction of H.R. 10867.

Title II of H.R. 15693 is identical, except for a technical change, to title II of H.R. 10877 introduced as an administration request by Mr. Cunningham, as well as the same provision in H.R. 10876 introduced by Messrs. Corbett, Meskill, Gross, Johnson of Pennsylvania, and Lukens; and H.R. 10881 introduced by Mr. Charles H. Wilson.

The technical change referred to begins on line 20 and ends on line 21 of page 7 of H.R. 15693, and consists of the insertion of the phrase "if such person has reached the age of twenty-one years."

STATEMENT

The committee, in reporting H.R. 15693, has acted to solve the problem created by mass mailings of obscene materials to minors and the mass of unsolicited sexually oriented advertisements going through the U.S. mails, and at the same time present for approval by the House of Representatives legislation which is constitutional.

The Subcommittee on Postal Operations held 5 days of public hearings and took direct testimony from 30 witnesses, as well as receiving for inclusion in the hearing record 38 statements and communications.

In addition, a survey by mail was made of the 50 State Governors, 50 State attorneys general, and 50 mayors of our largest cities. A total of 92 replies were received. Foreign embassies were also contacted, including the Embassies of Great Britain, France, Germany, Italy, the Netherlands, Denmark, Finland, Norway, Brazil, and Portugal.

Many distinguished Americans from the fields of literature, law, and medicine, submitted statements which were included in the hearing record. In addition, numerous articles by other persons with an interest in this problem were also included in the hearing record.

CONSTITUTIONALITY

The Supreme Court of the United States has indicated in its more recent opinions a constitutional basis for legislation on the subject of obscenity and privacy.

Justice Thurgood Marshall in the case of *Redrup v. New York*, 386 U.S. 767 (May 1967) set out in his opinion three separate bases on which Government could reasonably legislate in the area of obscenity. The three are the cases of statutes which—

(1) Reflect a specific and limited concern for juveniles (see *Prince v. Massachusetts*, 321 U.S. 158, *Butler v. Michigan*, 352 U.S. 380);

(2) Reflect a concern for an assault upon privacy by a publication in a manner so obtrusive as to make it impossible for an unwilling individual to avoid exposure to it (*Breard v. Alexandria*, 341, U.S. 622, *Public Utilities v. Pollak*, 343 U.S. 451); or

(3) Reflect a concern with "pandering" (as defined in *Ginzburg v. United States*, 383 U.S. 463).

H.R. 15693 reflects a concern for all three of these elements and as such has a solid constitutional foundation.

TITLE I

Title I of H.R. 15693 consists of congressional findings, an amendment adding a new section 4011 to chapter 51 of title 39, United States Code, and conforming amendments to section 1461 of title 18, United States Code.

This title is based almost entirely on a New York State statute, New York penal law section 484-h, as enacted by L. 1965, c. 327, which was upheld by the U.S. Supreme Court case of *Ginsberg v. New York*, 390 U.S. 629 (1968) under a theory of variable obscenity—that is, that a thing may be obscene as it affects minors, while not being obscene for adults. Justice Brennan in his opinion held that it was not unreasonable for a legislature to make legislative findings based on a theory of variable obscenity.

The standard for obscenity for adults is contained in the basic case upholding the constitutionality of 18 U.S.C. 1461 (*Roth v. United States*, 354 U.S. 476 (1957)), where the test for obscenity was said to be "whether to the average person, applying contemporary standards, the dominant theme of the material taken as a whole appeals to prurient interest."

The term "prurient" (which is used in H.R. 15693) is defined in footnote 20 of the *Roth* decision as "a shameful or morbid interest in nudity, sex, or excretion, and it goes substantially beyond customary limits of candor in description or representation of such matters."

H.R. 15693, in subsection (b)(6) of the new section 4011, adopts from the New York State statute a three-element definition of material harmful to minors—that is, material which—

(a) Predominantly appeals to the prurient, shameful, or morbid interest of minors; and

(b) Is offensive to prevailing standards in the adult community concerning what is suitable material for minors; and

(c) Is substantially without redeeming social value for minors.

The word "substantially" in the third such element replaces the word "utterly" in the New York State statute, which was used as part of the social value test for obscenity in the U.S. Supreme Court case of *Memoirs v. Massachusetts*, 383 U.S. 413 (1966), a plurality opinion by Justice Brennan in which he was joined by Chief Justice Warren and Justice Fortas. This substitution of the word "substantially" for "utterly" was first done in H.R. 11031, the administration bill which is before the Committee on the Judiciary.

The adverb "utterly" is defined in Webster's New World Dictionary as synonymous with the word "absolute," while the adverb "substantially" is defined in the same dictionary as being synonymous with the words "important and essential," "ample," or "large."

A lesser standard for the defining of material "harmful to minors" is provided because of the need to deal with a direct intrusion into the home, through the mailbox, of obscene material and sexually oriented advertising. The situation dealt with by the New York State statute was less severe in that it involved the purchase of magazines from retailers, where the purchase was made voluntarily and the retailer may not have known the contents of the magazine. In the *Memoirs v. Massachusetts* case, an action was brought against a book without evidence of any intrusion into the lives of persons in the community. At the present time, Justice Brennan is the only remaining Supreme Court Justice who was an original proponent of the "utterly without redeeming social importance" test, since Chief Justice Warren and Justice Fortas have resigned from the Court.

An affirmative defense is provided in the amendments made by section 103 of H.R. 15693 to protect mailers who merely require that those who send purchase orders state that they are adults. Compliance with this requirement would be sufficient grounds to sustain the affirmative defense thereby entitling the mailer to a finding, that the mailing was not in violation of the new statute. As a result only those mailers who do not receive such a statement, or who send unsolicited obscenity through the mails, could be successfully prosecuted. Such an affirmative defense and related provisions of the bill meet the requirement of *Butler v. Michigan* 352 U.S. 380, 1957, that juvenile obscenity regulations cannot preclude such material from reaching the hand of adults. Thus, under this provision adults may order what they wish.

TITLE II

Title II of H.R. 15693 consists of congressional findings, amendments adding new sections 4012 and 4013 to chapter 51 of title 3 and new sections 1735 and 1736 to title 18, U.S. Code, and conforming amendments.

This title protects the privacy of individuals, and of minors they are responsible for, from the intrusion into the home of unwanted sexually oriented advertising.

The new section 4012 provides for the maintenance by the Postmaster General of a register of the names and addresses of those persons (and minors they are responsible for) who object to receiving "sexually oriented advertising through the mail."

Sexually oriented advertising is very specifically defined as representations of human genitalia in a predominantly sexual context, natural or unnatural intercourse, sadism, or masochism.

A written work would fall within the prohibitions of the title only if the work taken as a whole would constitute a sexually oriented advertisement.

This title is based on the *Redrup* case and the case cited therein (*Breard v. Alexandria*, 341 U.S. 622) as support for the court's position on privacy. In the *Breard* case, a city ordinance restricting door-to-door selling was upheld as a reasonable ordinance, on the basis that commercial speech does not have the same standing that other

forms of expression do and that a different form of selling could be adopted by the companies involved which does not so intrude on persons that they cannot avoid listening to the message.

Title II of the bill does not define obscenity and is directed at material that is not necessarily in fact obscene. It protects the privacy of persons in the same manner that persons have a right to protection from aggressive and offensive selling under the rule in *Breard v. Alexandria*. Because title II is unrelated to obscenity as such, evidence gathered under its provisions could not be used in State prosecutions for violation of State obscenity laws.

The judicial enforcement provision of H.R. 15693 (the proposed new section 4013 of title 39) provides a means of deciding immediately constitutional and other legal questions in a civil court procedure. The Postmaster General may request the Attorney General to commence a civil action in a Federal district court seeking an injunction or restraining order. This is an improvement over the use of an administrative hearing and avoids the pitfalls set out in *Freedman v. Maryland* (380 U.S. 51, 1955) and *Manual Enterprises, Inc. v. Day* (370 U.S. 478, 1962). These cases held that it was vital that constitutional questions and questions of law involved in administrative proceedings be brought to the attention of a court as soon as possible in order to avoid violations of constitutional rights.

Under new section 4013, these matters would be brought before a court in the first instance rather than waiting for findings of fact by an administrative agency.

The new section 4013 provides broad discretion for the courts in the civil proceedings as to the type of court order that may be issued, in that mailers may be barred from mailings to specific persons or all persons and postmasters may be ordered to return mail directed to mailer organizations as in violation of the new section 4012.

The criminal provisions of this title, contained in the proposed new section 1735 of title 18, relate to prosecutions for ignoring the public notice provided by the list maintained by the Postmaster General. A second provision involves criminal sanctions in situations where the mailing list is misused by transferring to others and/or using the list for a commercial purpose or use other than the specific purpose set out in law.

Evidence and information obtained as a result of fulfilling the requirements of the new section 4012(a) of title 39—that is, marking the envelope in conformity with postal regulations on sexually oriented advertising—cannot be used in criminal proceedings against an individual. This protection for mailers is provided by the proposed new section 1736 of title 18.

EXPLANATION OF H.R. 15693 BY SECTION

TITLE I (PROTECTION OF MINORS PROVISION)

Section 101 of H.R. 15693 contains congressional findings bearing on the need for legislation to protect those under the age of 17 years from mailings of obscene matter.

Section 102 amends chapter 51 of title 39, United States Code, by adding at the end thereof a new section 4011, which describes a special category of nonmailable matter with respect to persons under 17 years of age.

This new section defines the special category of nonmailable matter as visual representations or written descriptions of the human body depicting nudity, sexual conduct, or sado-masochistic abuse, which material is harmful to minors. "Harmful to minors" is defined as that quality of description which predominantly appeals to the prurient, shameful, or morbid interest of minors, is offensive to prevailing standards in the adult community concerning what is suitable material for minors, and is substantially without redeeming social value for minors.

Under this standard, a picture of a nursing mother, for example, would not be considered prurient, would not offend national community standards, and would have at least some social value.

A distinction is drawn in the "harmful to minor" definition under this section. Visual representations under section 4011(a)(1) are non-mailable if they are harmful to minors, whereas section 4011(a)(2)(b), which describes written material or sound recordings, the test is stated as "taken as a whole, is harmful to minors." That test would protect a publication which contains sexually oriented advertising but which itself is not entirely sex oriented.

Subsection (c) contains specific definitions of the terms minor, nudity, sexual conduct, sexual excitement, sado-masochistic abuse, and harmful to minors. Nudity is defined as the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Subsection (d) states that this legislation does not amend, preempt, limit, modify, or otherwise change antiobscenity provisions in title 18 or title 39, the criminal and postal service provisions of the United States Code, respectively.

Section 103 contains several conforming amendments to the anti-obscenity provisions of section 1461 of title 18, United States Code.

Subparagraph (1) amends section 1461 by adding the words "or section 4011 of title 39," thus extending the sanctions of this criminal statute to violations of title I of H.R. 15693.

At the same time, subparagraph (2) adds an affirmative defense for mailers charged under such section 1461. This defense consists of evidence to substantiate a reasonable belief on the mailer's part that the addressee was an adult. A statement contained in requests for mailed material (which otherwise would fall within the prohibition of title I) that the addressee is an adult is sufficient to demonstrate that reasonable belief. Thus, the only mailed material falling within the prohibition would be that which is harmful to minors and is either unsolicited or is solicited by a person who does not affirm that he is an adult.

TITLE II

Section 201 contains congressional findings as follows: (1) that the U.S. mail is being used to exploit sexual sensationalism for commercial gain, (2) that much of the matter consists of unsolicited mailings, (3) that such mailings are profoundly shocking and offensive and, as unwarranted intrusions, violate the right of privacy, and (4) that use of the mails for such matters reduces the ability of responsible

parents to protect their children from exposure to material which the parents believe is harmful to them. The section also sets forth the determination by the Congress that such mailings are contrary to the public policy of the United States.

Section 202 amends chapter 51 of title 39, United States Code, by adding at the end thereof new sections 4012 and 4013.

Section 4012 upon enactment will provide that—

(a) persons who mail or cause to be mailed sexually oriented advertisements are required to place a symbol (to be prescribed by the Postmaster General) and his name and return address on the envelope or cover used to send such mail.

(b) permits any person to place his name, as well as those of his children or others under 19 years of age who are in his care and custody, on a list of those who do not desire to receive sexually oriented advertisements through the mails. This list shall be maintained and kept current by the Postmaster General. It shall be made available to mailers upon payment of a reasonable service charge. No such mailings shall be made to persons who have been so listed for more than 30 days.

(c) prohibits persons from trafficking in such lists and restricts their use to the sole purpose authorized by this legislation.

(d) Sexually oriented advertisements are defined in a manner designed to cover material found to be most offensive to a substantial number of citizens. Material which meets this definition but only constitutes a small and insignificant part of the subject work, the remainder of which is not primarily devoted to sexual matters, will not fall within the prohibition of this legislation.

Section 4013(a) permits the Postmaster General to request that the Attorney General of the United States institute a civil action in a Federal district court to seek an injunction to restrain an offending mailer from sending any sexually oriented advertisements to a specific addressee, group of addressees, or to all persons. The court order may also direct any postmaster to refuse to accept for mailing such matter and to withhold, under certain conditions, relevant mail addressed to such sender.

Subsection (b) provides that where remittances may be made to a person named in a sexually oriented advertisement, such person is presumed to be the agent for the mailer, thereby making subsection (a) more readily enforceable.

Subsection (c) provides that a Federal District Court also may enter a temporary restraining order or preliminary injunction upon the showing of probable cause that the statute is being violated. The temporary order may also include provisions similar to those in subsection (b).

Subsection (d) provides that such civil actions may be brought in the judicial district in which the defendant resides, or has his principal place of business, or in which any sexually oriented advertisement has been mailed in violation of section 4012.

Subsection (e) provides that legislation dealing with obscenity in title 18 and title 39 is not amended or repealed by these provisions.

Section 203 amends chapter 83, title 18, the criminal provisions of the United States Code, by adding two new sections, sections 1735 and 1736.

Section 1735 provides that willful violation of section 4012 of title 39, or any postal regulation issued thereunder, including any person who sells or transfers the list maintained by the Postmaster General under section 4012, shall be subject to fines of up to \$5,000 and/or imprisonment up to 5 years for a first offense, and fines of up to \$10,000 and/or imprisonment of not more than 10 years for a second offense.

Section 1736 provides that no information or evidence obtained as a result of compliance by a natural person with any provision of section 4012, or regulations thereunder, shall be used in a criminal proceeding. Further, the performance of any act by a natural person in compliance with this section shall not be deemed an admission of any fact, or otherwise be used, as evidence against that person in a criminal proceeding. These provisions do not apply in the case of a prosecution for supplying false information.

TITLE III (SEPARABILITY PROVISION AND EFFECTIVE DATE)

Section 301 provides that if any provision of this legislation is found invalid such findings shall not affect the remainder of the act.

Section 302 provides that the act shall become effective the first day of the sixth month which begins after the date of enactment.

COST

There is no basis at this time upon which estimates can be determined of the costs to be incurred in enforcing the provisions of this bill. However, the cost of the title II program for the maintenance of lists of those who do not desire to receive sexually oriented advertising via the mails is intended to be self-sustaining through use of the service charges levied by the Postmaster General.

EXECUTIVE COMMUNICATIONS

The administration supports H.R. 15693 in part. The message of the President and correspondence from the Post Office Department relating thereto follow:

To the Congress of the United States:

American homes are being bombarded with the largest volume of sex-oriented mail in history. Most of it is unsolicited, unwanted, and deeply offensive to those who receive it. Since 1964, the number of complaints to the Post Office about this salacious mail has almost doubled. One hundred and forty thousand letters of protest came in during the last 9 months alone, and the volume is increasing. Mothers and fathers by the tens of thousands have written to the White House and the Congress. They resent these intrusions into their homes, and they are asking for Federal assistance to protect their children against exposure to erotic publications.

The problem has no simple solution. Many publications dealing with sex—in a way that is offensive to many people—are protected under the broad umbrella of the first amendment prohibition against any law "abridging the freedom of speech, or of the press."

However, there are constitutional means available to assist parents seeking to protect their children from the flood of sex-oriented materials moving through the mails. The courts have not left society

defenseless against the smut peddler; they have not ruled out reasonable government action.

Cognizant of the constitutional structures, aware of recent Supreme Court decisions, this administration has carefully studied the legal terrain of this problem.

We believe we have discovered some untried and hopeful approaches that will enable the Federal Government to become a full partner with States and individual citizens in drying up a primary source of this social evil. I have asked the Attorney General and the Postmaster General to submit to Congress three new legislative proposals.

The first would prohibit outright the sending of offensive sex materials to any child or teenager under 18. The second would prohibit the sending of advertising designed to appeal to a prurient interest in sex. It would apply regardless of the age of the recipient. The third measure complements the second by providing added protection from the kind of smut advertising now being mailed, unsolicited, into so many homes.

PROTECTING MINORS

Many States have moved ahead of the Federal Government in drawing distinctions between materials considered obscene for adults and materials considered obscene for children. Some of these States, such as New York, have taken substantial strides toward protecting their youth from materials that may not be obscene by adult standards but which could be damaging to the healthy growth and development of a child. The U.S. Supreme Court has recognized, in repeated decisions, the unique status of minors and has upheld the New York statute. Building on judicial precedent, we hope to provide a new measure of Federal protection for the young.

I ask Congress to make it a Federal crime to use the mails or other facilities of commerce to deliver to anyone under 18 years of age material dealing with a sexual subject in a manner unsuitable for young people.

The proposed legislation would not go into effect until the sixth month after passage. The delay would provide mailers of these material. time to remove from their mailing lists the names of all youngsters under 18. The Federal Government would become a full partner with parents and States in protecting children from much of the interstate commerce in pornography. A first violation of this statute would be punishable by a maximum penalty of 5 years in prison and a \$50,000 fine; subsequent violations carry greater penalties.

PRURIENT ADVERTISING

Many complaints about salacious literature coming through the mails focus on advertisements. Many of these ads are designed by the advertiser to appeal exclusively to a prurient interest. This is clearly a form of pandering.

I ask the Congress to make it a federal crime to use the mails, or other facilities of commerce, for the commercial exploitation of a prurient interest in sex through advertising.

This measure focuses on the intent of the dealer in sex-oriented materials and his method of marketing his materials. Through the legislation we hope to impose restrictions on dealers who flood the mails with grossly offensive advertisements intended to produce a

market for their smut materials by stimulating the prurient interest of the recipient. Under the new legislation, this form of pandering could bring a maximum penalty of 5 years imprisonment, and a fine of \$50,000 for a first offense and 10 years and a fine of \$100,000 for subsequent offenses.

INVASION OF PRIVACY

There are other erotic sex-oriented advertisements that may be constitutionally protected but which are, nonetheless, offensive to the citizen who receives them in his home. No American should be forced to accept this kind of advertising through the mails.

In 1967 Congress passed a law to help deal with this kind of pandering. The law permits an addressee to determine himself whether he considers the material offensive in that he finds it "erotically arousing or sexually provocative." If the recipient deems it so, he can obtain from the Postmaster General a judicially enforceable order prohibiting the sender from making any further mailings to him or his children, and requiring the mailer to delete them from all his mailing lists.

More than 170,000 persons have requested such orders. Many citizens however, are still unaware of this legislation, or do not know how to utilize its provisions. Accordingly, I have directed the Postmaster General to provide every Congressional office with pamphlets explaining how each citizen can use this law to protect his home from offensive advertising. I urge Congress to assist our effort for the widest possible distribution of these pamphlets.

This pandering law was based on the principle that no citizen should be forced to receive advertisements for sex-oriented matter he finds offensive. I endorse that principle and believe its application should be broadened.

I therefore ask Congress to extend the existing law to enable a citizen to protect his home from any intrusion of sex-oriented advertising—regardless of whether or not a citizen has ever received such mailings.

This new stronger measure would require mailers and potential mailers to respect the expressed wishes of those citizens who do not wish to have sex-oriented advertising sent into their homes. These citizens will put smut-mailers on notice simply by filing their objections with a designated postal authority. To deliberately send such advertising to their homes would be an offense subject to both civil and criminal penalties.

As I have stated earlier there, is no simple solution to this problem. However, the measures I have proposed will go far toward protecting our youth from smut coming through the mails; they will place new restrictions upon the abuse of the postal service for pandering purposes; they will reinforce a man's right to privacy in his own home. These proposals, however, are not the whole answer.

The ultimate answer lies not with the government but with the people. What is required is a citizens' crusade against the obscene.

When indecent books no longer find a market, when pornographic films can no longer draw an audience, when obscene plays open to empty houses, then the tide will turn. Government can maintain the dikes against obscenity, but only people can turn back the tide.

RICHARD NIXON.

THE WHITE HOUSE, May 2, 1969.

THE POSTMASTER GENERAL,
Washington, D.C., May 2, 1969.

HON. JOHN W. McCORMACK
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill to adjust the postal revenues and to afford protection to the public from intrusion into their homes through the postal service of sexually oriented mail matter, and for other purposes.

Title I of the bill contains the postal rate increases recommended by the President in his message of April 24, 1969, to the Congress.

Title II of the bill provides for the implementation of the President's recommendation of May 2, 1969, to the Congress that the public be afforded relief from the invasion of the privacy of their homes by unwanted sexually oriented advertisements.

A detailed explanation of the craft legislation is also transmitted.

I recommend enactment of this legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

WINTON M. BLOUNT.

THE GENERAL COUNSEL,
POST OFFICE DEPARTMENT,
Washington, D.C., February 18, 1970.

HON. ROBERT N. C. NIX,
Chairman, Subcommittee on Postal Operations, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your February 13 request for the Department's views on H.R. 15693, a bill to amend title 39, United States Code, to exclude from the mails as a special category of nonmailable matter certain material offered for sale to minors, to protect the public from the offensive intrusion into their homes of sexually oriented mail matter, and for other purposes.

This measure relates to matters covered by the President in his message of May 5, 1969, to the Congress regarding the problem of offensive sex-oriented mail. As the President pointed out, much of this material is unsolicited and unwanted—and a great many parents are deeply concerned over the possibility of such mail falling into the hands of their children.

The President made three legislative proposals to deal with this problem. The first of these statutes would make it a Federal crime to use the mails or other facilities of commerce to deliver to anyone under 18 years of age material dealing with a sexual subject in a manner unsuitable for young people. H.R. 11031, if enacted, would carry out this objective. The second legislative proposal would make it a Federal crime to use the mails or other facilities of commerce for the commercial exploitation of prurient interest in sex through advertising. H.R. 11032 embodies this recommendation. The third statute proposed by the President would broaden the right of a citizen to protect the privacy of his home from invasion by unwanted sex-oriented advertising. Title II of H.R. 10877 covers this recommendation.

Title II of H.R. 15693 is substantially identical to title II of H.R. 10877. Title I of H.R. 15693 covers the same general subject as H.R. 11031—the distribution to young persons of sex-oriented matter harmful to them—but it treats the subject somewhat differently than H.R. 11031.

Both bills would prohibit use of the mails to deliver certain sex-oriented material to minors below a specified age. In addition to differences in the definition of the material that would be covered by the law, the measures differ in the following respects:

(1) H.R. 15693 would apply only to the use of the mails, while H.R. 11031 would also apply to transportation in interstate commerce outside the mails;

(2) H.R. 15693 would prohibit delivery of the harmful material to minors 16 years of age and under, while H.R. 11031 would apply to persons 17 years of age and under; and

(3) The maximum criminal penalties that could be imposed under H.R. 15693 would be substantially lower than the maximum penalties prescribed by H.R. 11031.

We strongly support the objectives sought to be achieved by H.R. 15693. In view of the differences between title I of that bill and the provisions of the corresponding administration bill, H.R. 11031, however, the Department favors the enactment of H.R. 11031 and H.R. 10877 in lieu of H.R. 15693.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the committee from the standpoint of the administration's program and that enactment of H.R. 11031, H.R. 11032, and H.R. 10877 would be in accord with the program of the President.

Sincerely,

DAVID A. NELSON

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHAPTER 51 OF TITLE 39, UNITED STATES CODE

Chapter 51.—NONMAILABLE MATTER

Sec.	
4001.	Nonmailable matter.
4002.	Nonmailable fourth class matter.
4003.	Mail bearing a fictitious name or address.
4004.	Delivery of mail to persons not residents of the place of address.
4005.	False representations; lotteries.
4006.	"Unlawful" matter.
4007.	Deterntion of mail for temporary periods.
4008.	Communist political propaganda.
4009.	Prohibition of pandering advertisement in the mails.
4010.	Nonmailable motor vehicle master keys.
4011.	Special category of nonmailable matter with respect to minors.
4012.	Mailing of sexually oriented advertisements.
4013.	Judicial enforcement.

* * * * *

§ 4011. Special category of nonmailable matter with respect to minors

(a) *The mails may not be used to make to a minor a sale, delivery, or distribution, or an offer for a sale, delivery, or distribution, of any matter described in this section. Such matter constitutes a special category of nonmailable matter with respect to minors, as follows:*

(1) *any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or a portion of the human body, which—*

(A) *depicts nudity, sexual conduct, or sadomasochistic abuse;*

and
(B) *is harmful to minors; or*

(2) *any book, pamphlet, magazine, or other printed matter, however reproduced, and any sound recording, which—*

A depicts nudity, sexual conduct, or sadomasochistic abuse or contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse; and

(B) taken as a whole, is harmful to minors.

(b) *If deposited in the mails for delivery to a residence in which a minor resides, matter which is described in subparagraph (1) or subparagraph (2) of subsection (a) of this section, or which constitutes or contains an offer or advertisement therefor or information as to where or how such matter may be obtained, shall be deemed to have been deposited in the mail for delivery to such minor, unless such matter is contained in a sealed envelope or sealed wrapper which conceals completely the contents and unless such wrapper or envelope is clearly, specifically, and personally addressed to an adult who resides at that residence.*

(c) *As used in this section—*

(1) *"minor" means any person under the age of seventeen years;*

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

(3) *"sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's covered or exposed genitals, pubic area, buttocks or, if such person be a female, breast;*

(4) *"sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal;*

(5) *"sadomasochistic abuse" means (A) flagellation or torture by or upon a nude person or a person clad in undergarments, a mask, or bizarre costume, or (B) the condition of being fettered, bound, or otherwise physically restrained on the part of a nude person or a person so clothed;*

(6) *"harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it—*

(A) predominantly appeals to the prurient, shameful, or morbid interest of minors; and

(B) is offensive to prevailing standards in the adult community concerning what is suitable material for minors; and

(C) is substantially without redeeming social value for minors.

(d) Nothing in this section shall be construed as amending, preempting, limiting, modifying, or otherwise in any way affecting section 1461 or 1463 of title 18 or section 4006, 4007, 4009, 4012, or 4013 of this title.

§ 4012. Mailing of sexually oriented advertisements

(a) Any person who mails or causes to be mailed any sexually oriented advertisement shall place on the envelope or cover thereof his name and address as the sender thereof and such mark or notice as the Postmaster General may prescribe.

(b) Any person, on his own behalf, or, if such person has reached the age of twenty-one years, on the behalf of any other person who has not attained the age of nineteen years and who resides with him or is under his care, custody, or supervision, may file with the Postmaster General a statement, in such form and manner as the Postmaster General may prescribe, that he desires to receive no sexually oriented advertisements through the mails. The Postmaster General shall maintain and keep current, insofar as practicable, a list of the names and addresses of such persons and shall make the list (including portions thereof or changes therein) available to any person, upon such reasonable terms and conditions as he may prescribe, including the payment of such service charge as he determines to be necessary to defray the costs of compiling and maintaining the list, keeping it current, and making it available as provided in this sentence. No person shall mail or cause to be mailed any sexually oriented advertisement to any individual whose name and address has been on the list for more than thirty days.

(c) No person shall sell, lease, lend, exchange, or license the use of, or, except for the purpose expressly authorized by this section, use any mailing list compiled in whole or in part from the list maintained by the Postmaster General pursuant to this section.

(d) "Sexually oriented advertisement" means any advertisement that depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing. Material otherwise within the definition of this subsection shall be deemed not to constitute a sexually oriented advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

§ 4013. Judicial enforcement

(a) Whenever the Postmaster General believes that any person is mailing or causing to be mailed any sexually oriented advertisement in violation of section 4012 of this title, he may request the Attorney General to commence a civil action against such person in a district court of the United States. Upon a finding by the court of a violation of that section, it may issue an order including one or more of the following provisions as the court deems just under the circumstances:

(1) a direction to the defendant to refrain from mailing any sexually oriented advertisement to a specific addressee, to any group of addressees, or to all persons;

(2) a direction to any postmaster to whom sexually oriented advertisements originating with such defendant are tendered for transmission through the mails to refuse to accept such advertisements for mailing; and

(3) a direction to any postmaster at the office at which registered or certified letters or other letters or mail arrive, addressed to the defendant or his representative, to return the registered or certified letters or other letters or mail to the sender appropriately marked as being in response to mail in violation of section 4012 of this title, after the defendant, or his representative, has been notified and given reasonable opportunity to examine such letters or mail and to obtain delivery of mail which is clearly not connected with activity in violation of section 4012 of this title.

(b) The statement that remittances may be made to a person named in a sexually oriented advertisement is prima facie evidence that such named person is the agent or representative of the mailer for the receipt of remittances on his behalf. The court is not precluded from ascertaining the existence of the agency on the basis of any other evidence.

(c) In preparation for or during the pendency of a civil action under subsection (a) of this section, a district court of the United States, upon application therefor by the Attorney General and upon a showing of probable cause to believe the statute is being violated, may enter a temporary restraining order or preliminary injunction containing such terms as the court deems just, including, but not limited to, provisions enjoining the defendant from mailing any sexually oriented advertisement to any person or class of persons, directing any postmaster to refuse to accept such defendant's sexually oriented advertisements for mailing, and directing the detention of the defendant's incoming mail by any postmaster pending the conclusion of the judicial proceedings. Any action taken by a court under this subsection does not affect or determine any fact at issue in any other proceeding under this section.

(d) A civil action under this section may be brought in the judicial district in which the defendant resides, or has his principal place of business, or in which any sexually oriented advertisement mailed in violation of section 4012 has been delivered by mail according to the direction thereon.

(e) Nothing in this section or in section 4012 shall be construed as amending, preempting, limiting, modifying, or otherwise in any way affecting section 1461 or 1463 of title 18 or section 4006, 4007, 4009, or 4011 of this title.

Title 18, United States Code

* * * * *

§ 1461. Mailing obscene or crime-inciting matter.

Every obscene, lewd, lascivious, indecent, filthy or vile article, matter, thing, device, or substance; and—

Every article or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use; and

Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for preventing conception or producing abortion, or for any indecent or immoral purpose; and

Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means conception may be prevented or abortion produced, whether sealed or unsealed; and

Every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for preventing conception or producing abortion, or for any indecent or immoral purpose; and

Every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine, or thing—

Is declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

Whoever knowingly uses the mails for the mailing, carriage in the mails, or delivery of anything declared by this section or section 4011 of title 39 to be nonmailable, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, or knowingly takes any such thing from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined not more than \$5,000 or imprisoned not more than five years, or both, for the first such offense, and shall be fined not more than \$10,000 or imprisoned not more than ten years, or both, for each such offense thereafter.

It shall be an affirmative defense to a charge of violating section 4011 of title 39 that the defendant reasonably believed that the addressee of the matter in question was an adult residing at the address shown on the sealed envelope or sealed wrapper referred to in section 4011(b) of title 39. Such reasonable belief may be based upon reasonable reliance by the person so charged on a purchase order or other declaration which such person in good faith believed to have been executed by the addressee, representing such addressee to be an adult, or on other evidence.

The term "indecent", as used in this section includes matter of a character tending to incite arson, murder, or assassination.

* * * * *

Chapter 83.—POSTAL SERVICE

- Sec.
- 1691. Laws governing postal savings.
 - 1692. Foreign mail as United States mail.
 - 1693. Carriage of mail generally.
 - 1694. Carriage of matter out of mail over post routes.
 - 1695. Carriage of matter out of mail on vessels.
 - 1696. Private express for letters and packets.
 - 1697. Transportation of persons acting as private express.
 - 1698. Prompt delivery of mail from vessel.
 - 1699. Certification of delivery from vessel.
 - 1700. Desertion of mails.
 - 1701. Obstruction of mails generally.
 - 1702. Obstruction of correspondence.
 - 1703. Delay or destruction of mail or newspapers.
 - 1704. Keys or locks stolen or reproduced.

- Sec.
- 1705. Destruction of letter boxes or mail.
 - 1706. Injury to mail bags.
 - 1707. Theft of property used by Postal Service.
 - 1708. Theft or receipt of stolen mail matter generally.
 - 1709. Theft of mail matter by postmaster or employee.
 - 1710. Theft of newspapers.
 - 1711. Misappropriation of postal funds.
 - 1712. Falsification of postal returns to increase compensation.
 - 1713. Issuance of money orders without payment.
 - 1714. Foreign divorce information as nonmailable.
 - 1715. Firearms as nonmailable; regulations.
 - 1716. Injurious articles as nonmailable.
 - 1716A. Nonmailable motor vehicle master keys.
 - 1717. Letters and writings as nonmailable; opening letters.
 - 1718. Libelous matter on wrappers or envelopes.
 - 1719. Franking privilege.
 - 1720. Canceled stamps and envelopes.
 - 1721. Sale or pledge of stamps.
 - 1722. False evidence to secure second-class rate.
 - 1723. Avoidance of postage by using lower class matter.
 - 1724. Postage on mail delivered by foreign vessels.
 - 1725. Postage unpaid on deposited mail matter.
 - 1726. Postage collected unlawfully.
 - 1728. Weight of mail increased fraudulently.
 - 1729. Post office conducted without authority.
 - 1730. Uniforms of carriers.
 - 1731. Vehicles falsely labeled as carriers.
 - 1732. Approval of bond or sureties by postmaster.
 - 1733. Affidavits relating to second class mail.
 - 1734. Editorials and other matter as "advertisements."
 - 1735. Sexually oriented advertisements.
 - 1736. Restrictive use of information.

* * * * *

§ 1735. Sexually oriented advertisements

Whoever willfully uses the mails for the mailing, carriage in the mails, or delivery of any sexually oriented advertisement in violation of section 4012 of title 39, or willfully violates any regulation of the Postmaster General issued under such section; or

Whoever sells, leases, rents, lends, exchanges, or licenses the use of, or, except for the purpose expressly authorized by section 4012 of title 39, uses a mailing list maintained by the Postmaster General pursuant to such section—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than \$10,000 or imprisoned not more than ten years, or both, for any second or subsequent offense.

§ 1736. Restrictive use of information

(a) No information or evidence obtained by reason of compliance by a natural person with any provision of section 4012 of title 39, or regulations issued thereunder, shall, except as provided in subsection (c) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding.

(b) The fact of the performance of any act by a natural person in compliance with any provision of section 4012 of title 39, or regulations issued thereunder, shall not be deemed the admission of any fact, or

otherwise be used, directly or indirectly, as evidence against that person in a criminal proceeding, except as provided in subsection (c) of this section.

(c) Subsections (a) and (b) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

STATEMENT BY HON. GLENN C. CUNNINGHAM

INDIVIDUAL VIEWS

In this bill, the committee is approaching the end of a long road in the regulation of obscenity and the violation of the privacy of the American home. It began for me, 13 years ago when I became a member of the Subcommittee on Postal Operations. Ten years ago the subcommittee began extensive hearings on this subject in the major cities of the country. These hearings resulted later in legislation which I supported which established a judicial officer in the Post Office Department and in legislation which allowed legal action being taken against smut mailers in a U.S. judicial district where such mail was received.

In the 88th Congress, I offered legislation which was passed by the U.S. House of Representatives and bottled up in the U.S. Senate Post Office and Civil Service Committee. The same thing happened in the 89th Congress. We were successful in the 90th Congress in amending postal rates legislation and such amendment contained my essential idea, which had been passed by the House of Representatives in the 88th and 89th Congresses. This is now Public Law 90-206, title III, 39 U.S. Code 4009.

At the beginning of this Congress, I introduced H.R. 10877, which contained what is now title II of H.R. 15693. I also cosponsored H.R. 10867 introduced by Mr. Dulski which contains title II of H.R. 15693 and essentially the same provisions on mailing to minors that are now set out in title I of this legislation.

I believe that we have had adequate hearings and study during this Congress. I also believe that there is 10 years of work behind this legislation and I enthusiastically support it.

○

91ST CONGRESS
2D SESSION

H. R. 15693

IN THE SENATE OF THE UNITED STATES

APRIL 30, 1970

Read twice and referred to the Committee on Post Office and Civil Service

AN ACT

To amend title 39, United States Code, to exclude from the mails as a special category of nonmailable matter certain material offered for sale to minors, to protect the public from the offensive intrusion into their homes of sexually oriented mail matter, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—PROTECTION OF MINORS FROM RE-
4 CEIPT OF OBSCENE MATERIALS THROUGH
5 THE MAIL

6 SEC. 101. The Congress finds—

7 (1) that the United States mails are being used
8 to effect the sale, distribution, and delivery to minors

1 of matter offensive to prevailing standards in the adult
2 community concerning which materials are suitable for,
3 and should be made available to, minors;

4 (2) that it is against the public interest that the
5 United States mails be used to convey this offensive
6 matter to minors; and

7 (3) that, in order to protect the children of the
8 United States from exposure to harmful and offensive
9 matter by means of the United States mails, it is sound
10 public policy to establish, in addition to other classes
11 of nonmailable matter, a special category of matter which
12 may not be sent to minors through the United States
13 mails.

14 SEC. 102. (a) Chapter 51 of title 39, United States
15 Code, is amended by adding at the end thereof the following
16 new section:

17 **“§ 4011. Special category of nonmailable matter with re-**
18 **spect to minors**

19 “(a) The mails may not be used to make to a minor a
20 sale, delivery, or distribution, or an offer for a sale, delivery,
21 or distribution, of any matter described in this section. Such
22 matter constitutes a special category of nonmailable matter
23 with respect to minors, as follows:

24 “(1) any picture, photograph, drawing, sculpture,
25 motion picture film, or similar visual representation or

1 image of a person or a portion of the human body,
2 which—

3 “(A) depicts nudity, sexual conduct, or sado-
4 masochistic abuse; and

5 “(B) is harmful to minors; or

6 “(2) any book, pamphlet, magazine, or other
7 printed matter, however reproduced, and any sound
8 recording, which—

9 “(A) depicts nudity, sexual conduct, or sado-
10 masochistic abuse or contains explicit and detailed
11 verbal descriptions or narrative accounts of sexual
12 excitement, sexual conduct, or sadomasochist
13 abuse; and

14 “(B) taken as a whole, is harmful to minors.

15 “(b) If deposited in the mails for delivery to a residence
16 in which a minor resides, matter which is described in sub-
17 paragraph (1) or subparagraph (2) of subsection (a) of
18 this section, or which constitutes or contains an offer or
19 advertisement therefor or information as to where or how
20 such matter may be obtained, shall be deemed to have been
21 deposited in the mail for delivery to such minor, unless such
22 matter is contained in a sealed envelope or sealed wrapper
23 which conceals completely the contents and unless such
24 wrapper or envelope is clearly, specifically, and personally

1 addressed to a person who is not a minor who resides at that
2 residence.

3 “(c) As used in this section—

4 “(1) ‘minor’ means any person under the age of
5 seventeen years;

6 “(2) ‘nudity’ means the showing of the human
7 male or female genitals, pubic area, or buttocks with
8 less than a fully opaque covering, or the showing of
9 the female breast with less than a fully opaque covering
10 of any portion thereof below the top of the nipple, or
11 the depiction of covered male genitals in a discernibly
12 turgid state;

13 “(3) ‘sexual conduct’ means acts of masturbation,
14 homosexuality, sexual intercourse, or physical contact
15 with a person’s covered or exposed genitals, pubic area,
16 buttocks or, if such person be a female, breast;

17 “(4) ‘sexual excitement’ means the condition of
18 human male or female genitals when in a state of sexual
19 stimulation or arousal;

20 “(5) ‘sadomasochistic abuse’ means (A) flagella-
21 tion or torture by or upon a nude person or a person
22 clad in undergarments, a mask, or bizarre costume, or
23 (B) the condition of being fettered, bound, or otherwise
24 physically restrained on the part of a nude person or a
25 person so clothed;

26 “(6) ‘harmful to minors’ means that quality of any

1 description or representation, in whatever form, of nu-
2 dity, sexual conduct, sexual excitement, or sadomaso-
3 chistic abuse, when it—

4 “(A) predominantly appeals to the prurient,
5 shameful, or morbid interest of minors; and

6 “(B) is offensive to prevailing standards in the
7 adult community concerning what is suitable mate-
8 rial for minors; and

9 “(C) is substantially without redeeming social
10 value for minors.

11 “(d) Nothing in this section shall be construed as
12 amending, preempting, limiting, modifying, or otherwise in
13 any way affecting section 1461 or 1463 of title 18 or section
14 4006, 4007, 4009, 4012, or 4013 of this title.”.

15 (b) The table of sections of chapter 51 of title 39,
16 United States Code, is amended by adding—

“4011. Special category of nonmailable matter with respect to minors.”

17 immediately below—

“4010. Nonmailable motor vehicle master keys.”.

18 SEC. 103. Section 1461 of title 18, United States Code,
19 is amended—

20 (1) by inserting “or section 4011 of title 39”
21 immediately after “declared by this section” in the
22 penultimate paragraph thereof; and

23 (2) by inserting immediately before the last para-
24 graph thereof the following new paragraph:

1 “It shall be an affirmative defense to a charge of violat-
 2 ing section 4011 of title 39 that the defendant reasonably
 3 believed that the addressee of the matter in question was an
 4 adult residing at the address shown on the sealed envelope
 5 or sealed wrapper referred to in section 4011 (b) of title 39.
 6 Such reasonable belief may be based upon reasonable re-
 7 liance by the person so charged on a purchase order or other
 8 declaration which such person in good faith believed to have
 9 been executed by the addressee, representing such addressee
 10 to be an adult, or on other evidence.”.

11 TITLE II—PROTECTION FROM INVASIONS OF
 12 PRIVACY THROUGH MAILING OF SEXUALLY
 13 ORIENTED ADVERTISEMENTS

14 SEC. 201. (a) The Congress finds—

15 (1) that the United States mails are being used for
 16 the indiscriminate dissemination of matter so designed
 17 and so presented as to exploit sexual sensationalism for
 18 commercial gain;

19 (2) that such matter is profoundly shocking to
 20 many persons who receive it, unsolicited, through the
 21 mails;

22 (3) that such use of the mails subjects these persons
 23 to offensive and unwarranted intrusions upon their right
 24 to privacy; and

25 (4) that such use of the mails reduces the ability of

1 responsible parents to protect their minor children from
 2 exposure to material which they as parents believe to
 3 be harmful to their children.

4 (b) On the basis of the foregoing the Congress deter-
 5 mines that it is contrary to the public policy of the United
 6 States for the postal facilities and services of the United
 7 States to be used for the distribution of such materials to per-
 8 sons who do not want their privacy invaded in this manner
 9 or to persons who wish to protect their minor children from
 10 exposure to such material.

11 SEC. 202. (a) Chapter 51 of title 39, United States
 12 Code, is amended by adding at the end thereof the following
 13 new sections:

14 “§ 4012. Mailing of sexually oriented advertisements

15 “(a) Any person who mails or causes to be mailed any
 16 sexually oriented advertisement shall place on the envelope
 17 or cover thereof his name and address as the sender thereof
 18 and such mark or notice as the Postmaster General may
 19 prescribe.

20 “(b) Any person, on his own behalf, or, if such person
 21 has reached the age of twenty-one years, on the behalf of any
 22 other person who has not attained the age of nineteen years
 23 and who resides with him or is under his care, custody, or
 24 supervision, may file with the Postmaster General a state-
 25 ment, in such form and manner as the Postmaster General

1 may prescribe, that he desires to receive no sexually oriented
 2 advertisements through the mails. The Postmaster General
 3 shall maintain and keep current, insofar as practicable, a
 4 list of the names and addresses of such persons and shall make
 5 the list (including portions thereof or changes therein) avail-
 6 able to any person, upon such reasonable terms and conditions
 7 as he may prescribe, including the payment of such service
 8 charge as he determines to be necessary to defray the costs
 9 of compiling and maintaining the list, keeping it current,
 10 and making it available as provided in this sentence. No
 11 person shall mail or cause to be mailed any sexually oriented
 12 advertisement to any individual whose name and address has
 13 been on the list for more than thirty days.

14 “(c) No person shall sell, lease, lend, exchange, or
 15 license the use of, or, except for the purpose expressly au-
 16 thorized by this section, use any mailing list compiled in
 17 whole or in part from the list maintained by the Postmaster
 18 General pursuant to this section.

19 “(d) ‘Sexually oriented advertisement’ means any ad-
 20 vertisement that depicts, in actual or simulated form, or ex-
 21 plicitly describes, in a predominantly sexual context, human
 22 genitalia, any act of natural or unnatural sexual intercourse,
 23 any act of sadism or masochism, or any other erotic subject
 24 directly related to the foregoing. Material otherwise within
 25 the definition of this subsection shall be deemed not to con-

1 stitute a sexually oriented advertisement if it constitutes only
 2 a small and insignificant part of the whole of a single catalog,
 3 book, periodical, or other work the remainder of which is
 4 not primarily devoted to sexual matters.

5 **“§ 4013. Judicial enforcement**

6 “(a) Whenever the Postmaster General believes that
 7 any person is mailing or causing to be mailed any sexually
 8 oriented advertisement in violation of section 4012 of this
 9 title, he may request the Attorney General to commence a
 10 civil action against such person in a district court of the
 11 United States. Upon a finding by the court of a violation of
 12 that section, it may issue an order including one or more of
 13 the following provisions as the court deems just under the
 14 circumstances:

15 “(1) a direction to the defendant to refrain from
 16 mailing any sexually oriented advertisement to a spe-
 17 cific addressee, to any group of addressees, or to all
 18 persons;

19 “(2) a direction to any postmaster to whom sex-
 20 ually oriented advertisements originating with such de-
 21 fendant are tendered for transmission through the mails
 22 to refuse to accept such advertisements for mailing; and

23 “(3) a direction to any postmaster at the office at
 24 which registered or certified letters or other letters or

1 mail arrive, addressed to the defendant or his repre-
 2 sentative, to return the registered or certified letters or
 3 other letters or mail to the sender appropriately marked
 4 as being in response to mail in violation of section 4012
 5 of this title, after the defendant, or his representative,
 6 has been notified and given reasonable opportunity to
 7 examine such letters or mail and to obtain delivery of
 8 mail which is clearly not connected with activity in
 9 violation of section 4012 of this title.

10 “(b) The statement that remittances may be made to a
 11 person named in a sexually oriented advertisement is prima
 12 facie evidence that such named person is the agent or repre-
 13 sentative of the mailer for the receipt of remittances on his
 14 behalf. The court is not precluded from ascertaining the
 15 existence of the agency on the basis of any other evidence.

16 “(c) In preparation for or during the pendency of a
 17 civil action under subsection (a) of this section, a district
 18 court of the United States, upon application therefor by the
 19 Attorney General and upon a showing of probable cause to
 20 believe the statute is being violated, may enter a temporary
 21 restraining order or preliminary injunction containing such
 22 terms as the court deems just, including, but not limited to,
 23 provisions enjoining the defendant from mailing any sexually
 24 oriented advertisement to any person or class of persons,
 25 directing any postmaster to refuse to accept such defendant’s

1 sexually oriented advertisements for mailing, and directing
 2 the detention of the defendant’s incoming mail by any post-
 3 master pending the conclusion of the judicial proceedings.
 4 Any action taken by a court under this subsection does not
 5 affect or determine any fact at issue in any other proceeding
 6 under this section.

7 “(d) A civil action under this section may be brought in
 8 the judicial district in which the defendant resides, or has his
 9 principal place of business, or in which any sexually oriented
 10 advertisement mailed in violation of section 4012 has been
 11 delivered by mail according to the direction thereon.

12 “(e) Nothing in this section or in section 4012 shall be
 13 construed as amending, preempting, limiting, modifying, or
 14 otherwise in any way affecting section 1461 or 1463 of title
 15 18 or section 4006, 4007, 4009, or 4011 of this title.”.

16 (b) The table of sections of chapter 51 of title 39,
 17 United States Code, is amended by adding at the end
 18 thereof—

“4012. Mailing of sexually oriented advertisements.
 “4013. Judicial enforcement.”.

19 SEC. 203. (a) Chapter 83 of title 18, United States
 20 Code, relating to offenses against the postal service, is
 21 amended by adding at the end thereof the following new
 22 sections:

1 **“§ 1735. Sexually oriented advertisements**

2 “Whoever willfully uses the mails for the mailing, car-
3 riage in the mails, or delivery of any sexually oriented adver-
4 tisement in violation of section 4012 of title 39, or willfully
5 violates any regulation of the Postmaster General issued
6 under such section; or

7 “Whoever sells, leases, rents, lends, exchanges, or
8 licenses the use of, or, except for the purpose expressly
9 authorized by section 4012 of title 39, uses a mailing list
10 maintained by the Postmaster General pursuant to such
11 section—

12 “Shall be fined not more than \$5,000 or imprisoned
13 not more than five years, or both, for the first offense, and
14 shall be fined not more than \$10,000 or imprisoned not
15 more than ten years, or both, for any second or subsequent
16 offense.

17 **“§ 1736. Restrictive use of information**

18 “(a) No information or evidence obtained by reason of
19 compliance by a natural person with any provision of section
20 4012 of title 39, or regulations issued thereunder, shall,
21 except as provided in subsection (c) of this section, be
22 used, directly or indirectly, as evidence against that person
23 in a criminal proceeding.

1 “(b) The fact of the performance of any act by a
2 natural person in compliance with any provision of section
3 4012 of title 39, or regulations issued thereunder, shall not
4 be deemed the admission of any fact, or otherwise be used,
5 directly or indirectly, as evidence against that person in a
6 criminal proceeding, except as provided in subsection (c)
7 of this section.

8 “(c) Subsections (a) and (b) of this section shall not
9 preclude the use of any such information or evidence in a
10 prosecution or other action under any applicable provision
11 of law with respect to the furnishing of false information.”.

12 (b) The table of sections of such chapter 83 is amended
13 by adding at the end thereof—

“1735. Sexually oriented advertisements.
“1736. Restrictive use of information.”.

14 **TITLE III—SEPARABILITY PROVISION AND**
15 **EFFECTIVE DATE**

16 **SEC. 301.** If any provision of this Act or the application
17 thereof to any person or circumstance is held invalid, the
18 remainder of this Act and the application of such provision to
19 other persons not similarly situated or to other circumstances
20 shall not be affected thereby.

1 SEC. 302. The foregoing provisions of this Act shall
2 become effective on the first day of the sixth month which
3 begins after the date of enactment of this Act.

Passed the House of Representatives April 28, 1970.

Attest: W. PAT JENNINGS,
Clerk.

91st CONGRESS
2D SESSION

H. R. 15693

AN ACT

To amend title 39, United States Code, to exclude from the mails as a special category of nonmailable matter certain material offered for sale to minors, to protect the public from the offensive intrusion into their homes of sexually oriented mail matter, and for other purposes.

APRIL 30, 1970

Read twice and referred to the Committee on Post
Office and Civil Service

the House of Representatives. He was the ranking Republican on the House Administration Committee. As a member of the Appropriations Committee, he was the ranking member on the Subcommittee for Defense appropriations. He also served on the Joint Committee on Printing and the Joint Committee on the Library. He always exhibited judgment and integrity in executing the duties and obligations of his office.

This is a better Congress, and we are a better Nation, because of Glenard Lipscomb's service in the House of Representatives and his dedicated service to his fellowmen. Mrs. Dorn joins me in the deepest and most heartfelt sympathy to Mrs. Lipscomb and the family.

PROTECTION OF MINORS AND OF RIGHTS OF PRIVACY FROM SEXUALLY ORIENTED MAIL

SPEECH OF

HON. WILLIAM M. McCULLOCH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 28, 1970

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 15693) to amend title 39, United States Code, to exclude from the mails as a special category of nonmailable matter certain material offered for sale to minors, to protect the public from the offensive intrusion into their homes of sexually oriented mail matter, and for other purposes.

Mr. McCULLOCH. Mr. Chairman, I am deeply troubled by the serious threat to the moral fabric of our society posed by the mountains of obscene materials which daily pour through the mails.

The purveyors of this smut do not respect the sanctity of your home or your time-honored right to privacy. They do not respect your right to protect your minor children from exposure to this material. They do not respect the human body; rather they defile it. They do not respect the need for decency and morality in America.

In fact, Mr. Chairman, the pornographers respect only one thing: the fast buck they get from plying their dirty trade.

Sensing the need to enact legislation to correct this most vexing problem, the President in May 1969 recommended to the Congress a program for a three-pronged attack on obscenity.

The first administration bill, H.R. 11031, of which I had the privilege to be the principal sponsor, is designed to help parents protect their minor children from obscene materials. H.R. 11031 would make it a crime to knowingly mail or transport in interstate commerce matter to persons under age 18 which describes or represents nudity, sexual conduct or sado-masochistic behavior, which is offensive to prevailing community standards concerning what is suitable material for minors and which is substantially without redeeming social value for minors.

The second bill, H.R. 11032, of which I also had the privilege of being the prin-

cipal sponsor, is aimed at the mass of obscene and objectionable advertisements that are sent out indiscriminately in mass mailings by the purveyors of pornographic literature. H.R. 11032 would prohibit knowingly mailing or transporting in interstate commerce any advertisement or solicitation designed to appeal to a prurient interest in sex.

My good friend, the Honorable GLENN CUNNINGHAM of Nebraska, was the principal sponsor of H.R. 10877, the third bill in this antiobscenity package. H.R. 10877 would prohibit the mailing of any "sexually-oriented advertisement" to any person who filed with the Postmaster a statement that he desired to receive no such materials through the mails. This bill strikes directly at the problem of the unsolicited obscene advertisements which have flooded our homes.

H.R. 15693, the bill now before the House, is most laudable and deserves our support in that it contains two of the President's three proposals. Title I is a protection of minors provision based on H.R. 11031 and also on a New York State statute on the subject which was upheld as constitutional in *Ginsberg v. State of New York*, 390 U.S. 629 (1968). Title II of this bill contains the provisions of H.R. 10877 almost verbatim.

Mr. Chairman, the problem of pornography will not go away by itself; we must pass effective and constitutional legislation to root out this evil in our midst. H.R. 15693, on which the Committee on Post Office and Civil Service has labored long and hard, represents a constructive legislative approach. The control of pornography sent through the mails, unsolicited or to minors, is an idea whose time has long since come. It is in fact long overdue. I therefore strongly urge the adoption of H.R. 15693.

GIVING THANKS FOR THE SOIL

HON. THOMAS S. KLEPPE

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 4, 1970

Mr. KLEPPE. Mr. Speaker, as a member of the House Committee on Agriculture, I should like to draw to the attention of this body the fact that this week—the first full week in May—is being observed throughout America as Soil Stewardship Week. This annual observance is sponsored by the 3,000 local conservation districts and cooperating church groups. All of North Dakota's 66 Soil and Water Conservation Districts are participating.

This week ministers of all faiths are carrying vital messages to their followers to further God's purpose in the conservation, development, and proper use of soil, water, and related resources.

I salute the thousands of clergy of all faiths who use this observance to remind us that soil stewardship is everyone's responsibility. It is a responsibility of people who live in the towns and cities as well as those who work the land.

America's eyes have been on the "glamour sciences" in recent years. The

wonders of medicine, of electronics, and astronauts in outer space. And they are wonders. But, down on earth, on thousands of fields of different kinds of soils, conservationists have also been at work. What they have done to keep the soils from wearing out equals any moon landing man will ever make.

Soil on earth lies as far as the eye can see. It covers millions upon millions of acres around the globe. Yet, it is a rare thing and cannot be replaced.

This soil is a living thing, yet it can be destroyed. This soil is God's gift to mankind, given unto our stewardship, yet it can be despoiled and wasted.

This soil is fruitful, yet it can become sterile. This soil produces crops and grasses and trees. It cannot be duplicated by chemistry or physics. This soil is an intricate house of myriad elements. Yet it is so commonplace as to be known as dirt.

Soil fills the flowerpots in Baltimore, serves as a garden in Minnesota, produces an orchard in California, and bears wheat in North Dakota. It is the source of our nourishment, it provides the means of our protection. God has willed we can live with it. We cannot live without it.

This is the kind of message being preached this week by ministers of all faiths throughout the Nation. I think it appropriate that the House of Representatives pay tribute to the sponsors of Soil Stewardship Week—the local Soil and Water Conservation Districts of America. The men and women who serve without pay on the governing bodies of these local units of State government deserve our praise for the leadership they are providing in our home communities.

They are performing an important patriotic service. I take this opportunity to congratulate them on focusing attention on the challenge of the future in developing soil, water, and related resources.

NO LONGER MY FRIEND

HON. WENDELL WYATT

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 4, 1970

Mr. WYATT. Mr. Speaker, the Daily Astorian, Astoria, Oreg., in a recent editorial has performed an important public service in calling attention to the tragic case of a young college student who burned himself to death after using the drug mescaline.

I commend this article to my colleagues:

NO LONGER MY FRIEND

One of the most poignant statements that has been made against the use of LSD and the other mind-expanding drugs came in a wire service story the other day out of Gainesville, Fla.

A 20-year-old college student who had experienced the drug mescaline doused his body and car with gasoline and burned himself to death.

"My mind is no longer my friend," wrote student Andy Anderson in a poem before he died. "It won't leave me alone."

In a note made public later, he wrote: "The drug experience has filled me with

16 Copies to Mr. Ford only

Office Copy

AN ADDRESS BY REP. GERALD R. FORD, R-MICH.
REPUBLICAN LEADER, U.S. HOUSE OF REPRESENTATIVES
BEFORE THE INTERNATIONAL CHILD EVANGELISM FELLOWSHIP CONFERENCE
AT KNOLLCREST CAMPUS, CALVIN COLLEGE
GRAND RAPIDS, MICHIGAN
7 P.M. MONDAY, MAY 25, 1970

FOR RELEASE ON DELIVERY

As it is written in Proverbs: "Train up a child in the way he should go: and when he is old, he will not depart from it."

We are all here because we love children; and we are here because we love God.

It is a pleasure for me to join you at your International Conference, and it is an honor and a privilege to be your keynote speaker.

Recent events would make it appear that these are dark hours through which we are presently living, and indeed our problems are major and manifold. But I am by nature cautiously optimistic, and I agree with those who say that the darkest hours are those which herald the dawn.

The light is coming. Light will soon be shed on the pressing problems which are facing Americans today--the war in Indochina, the continuing rise in the cost of living, the constant rise in the crime rate.

I have chosen to talk with you tonight about the staggering problems which still confront us in the war against crime. But let me first comment briefly on Vietnam and Cambodia and on inflation.

Whether or not you agree with our continued effort to gain self-determination for the South Vietnamese, the fact remains that our attack against the invaders of Cambodia--the North Vietnamese--is proving enormously successful. We have seized enough enemy arms to outfit more than 70 enemy battalions of 500 men each. We have captured more enemy ammunition than the Communists would use in two years. We have seized enough enemy rice to feed more than 10,000 troops for a year. We have set back the enemy by six to eight months. We have saved American and South Vietnamese lives. I think we have made it possible to withdraw more than 150,000 additional U.S. troops from South Vietnam over the next 12 months.

On inflation I will say that the restraints employed by the Administration will definitely show results in the months ahead and will make it possible to modestly stimulate the economy without reviving strong inflationary pressures. I look for good progress in the immediate future. (more)

Now I would like to talk with you about another most serious problem in America--our failure to deal effectively with juvenile crime. I believe this failure has become a near disaster for our country.

Arrests of juveniles for serious crime increased 78 per cent nationally from 1960 to 1968, the last year for which we have official figures. The rate climbs higher daily.

The statistics on juvenile crime are even more tragic and disturbing than those for crime as a whole.

Of all aspects of crime, none is more discouraging than juvenile delinquency.

One out of every nine children will be referred to a juvenile court for an act of delinquency before his 16th birthday.

Nearly one-half of all serious crimes--murder, rape, robbery, assault, burglary, larceny, auto theft--is committed by persons under 18.

The most arrests are of persons 15 and 16 years of age.

Juvenile crime accounts in large measure for the Nation's soaring crime rate.

According to the F.B.I., arrests of youths under 18 years of age made up more than half of the total national crime increase of 122 per cent from 1960 to 1968.

While just 16 per cent of the Nation's population is 10 through 17 years of age, they accounted for 46 per cent of serious crime in 1968.

Once involved in crime, a juvenile is likely to commit repeated criminal acts. All too frequently he crosses the threshold into adult crime.

In an effort to prevent juvenile crime--and to rehabilitate those who slip into delinquency, Congress in 1968 enacted the Juvenile Delinquency Prevention and Control Act.

Under this Act the Federal Government pays up to 90 per cent of the cost of anti-delinquency programs sponsored by state and local public agencies and private non-profit organizations. It pays up to 60 per cent for special purpose facilities for rehabilitating delinquent youths.

The causes of juvenile crime are unclear. The methods of prevention are uncertain. Rehabilitation in all too many cases is unsuccessful.

Certainly there is a place in juvenile delinquency prevention for Child Evangelism, a place for the vital programs that the CEF has been carrying out.

A point to remember is that a busy teenager, in school, playing in sports, or working at a part-time job has no time for delinquency. It is also most important

(more)

that God be a part of his life, even if he is reluctant to admit Him as a companion.

In recent years a new development has made the problem of juvenile waywardness more acute.

Drug abuse has exploded onto the scene, with devastating results. Drug abuse in this country is mounting at a startling rate, and the most shocking aspect of it is the extent to which it involves the very young.

Between 1960 and 1968 there was a 322 per cent increase in the number of arrests related to narcotic drugs. Between 1967 and 1968 alone, there was a 64 per cent increase.

For the year 1968, the F.B.I.'s Uniform Crime Reports indicate that 162,177 persons were arrested by State and local authorities for narcotic and marijuana drug violations.

Of this number, 43,200 were under the age of 18, and 6,243 were under the age of 15.

These figures need little explanation, except to say that for every individual apprehended, scores of others remain undetected. I might add that the average age of all the drug violators apprehended was 21 years.

So we are dealing with a youth problem. That much is clear.

The appalling fact is that drug abuse arrests of juveniles, those 18 or under, increased by 1,860 per cent during the first eight years of the 1960s.

We can only conclude that drug abuse is threatening the health and safety of our society.

Consider what has happened in New York--the only city which has maintained longterm records related to drug abuse.

In the first five years of the Sixties, about 300 people in New York City died from heroin-related causes. But in 1969--in just that 12-month period alone--more than 900 people died of such causes. And of these, 224 were teen-agers-- 24 of them under the age of 15. It is reported that heroin is in every high school in New York City, public and private.

This is just one indication of the accelerated trend in the use of hard drugs. Drug abuse has increased phenomenally in virtually every major metropolitan area, reports show.

What is most worrisome is that the age level of drug users is constantly decreasing.

Five years ago, college seniors were virtually the only students engaging in marijuana use. But in just two or three years, "pot" smoking moved down to the

(more)

freshman level and in another two years it had become a problem in high schools. Now it is getting into the junior high schools.

I would make the point here that the greatest drug abuse occurs in metropolitan areas. The least drug abuse among young people is found in rural or very small town settings.

The most commonly abused drugs include heroin, marijuana, LSD and a whole host of other synthetic hallucinogens, the amphetamines or pep pills and the barbiturates or sleeping pills.

Let me emphasize the danger to our youth by pointing out that in 1968 more than one-half of the individuals arrested for narcotics violations were persons under 21 years of age. Of those involved with marijuana, 65 per cent were under 21 and 29 per cent were persons under 18.

What should be done with a child found using marijuana? He certainly should be administered some good fatherly discipline. If that fails, the parent should seek outside counseling--the family physician or school counselor and certainly a clergyman.

Marijuana is not a physically addictive drug. The vast majority of people who experiment with it try it from one to 10 times and then drop it. But there is a correlation between frequent use of marijuana and the use of other drugs. The chronic marijuana user becomes exposed to what has become known as the drug subculture. In this environment, he is thrown together with people who use other drugs. And it is a matter of record that the explosion in marijuana use has been accompanied by a sharp rise in heroin use.

It seems reasonable to assume that if many individuals did not get involved with marijuana they would never become users of the more potent and dangerous drugs.

We now have a drug control bill before the Congress--it has already passed the Senate--which would make the simple possession of marijuana a misdemeanor on the first offense. Under this bill, the first offender could be given probation by a judge and, if he completes his probation satisfactorily, have his record expunged. But a second offense would be judged a felony. I expect the House to approve this bill because the need for new legislation to deal with the drug problem is widely recognized in the Congress.

In the long term, I believe that education is the best way to curb drug abuse in the United States. We need to persuade our young people that drug abuse leads only to self-destruction and a terrible hurt for members of the addict's family.

(more)

Drug abuse also, of course, contributes heavily to the crime toll throughout the United States each year.

It is estimated that 50 to 75 per cent of the crimes committed on our Nation's streets are perpetrated by drug addicts. And so one step we must take is a massive effort to halt the importation of illegal drugs into the United States. This we are trying very hard to do, particularly as regards Turkey and Mexico. In the case of Turkey, for instance, we are trying to get that country to stop opium production, or at least to control its manufacture and distribution.

If we can eliminate Turkey as a source of opium, we can reduce the amount of heroin coming into the United States by at least 50 per cent. Officials of the U.S. Justice Department believe we can reach that goal in two or three years.

Let me stress now that although there might seem to be no connection the drug-related street crimes I cited a bit earlier are directly associated with organized crime. It is organized crime--the Mafia--which makes illegal narcotics available in large volume in the United States. Therefore much of our street crime flows directly from the activities of organized crime.

What are we doing to fight crime? There is no question that crime control is primarily a state and local responsibility but there is also much that the Federal Government can do to help.

Legislatively, help was provided in 1968 and I hope it will be forthcoming this year.

In 1968 Congress passed a law which authorized Federal grants to upgrade state and local police forces and provide for greater crime control. Congress that year also passed the juvenile delinquency control act I previously cited.

The present Congress has a host of Administration anti-crime bills before it, providing new tools to fight organized crime, better ways to handle drug abuse, more judges, and a variety of other crime-fighting weapons.

The Senate has responded fairly swiftly but has weakened some Administration proposals. In the House there has been some foot-dragging by those who see every strong anti-crime measure as unconstitutional. I hope all of the differences will be soon resolved so that we can step up the war against crime.

Specifically in the area of juvenile delinquency, the House Judiciary Committee is considering the Federal Youth Corrections Act, which would authorize the Board of Parole Examiners to interview youthful offenders, and amendments to the 1968 Omnibus Crime Control and Safe Streets Act, which would provide additional

(more)

funding to improve state and local correctional facilities for juveniles.

I have cited some grim statistics on crime, and one could easily feel overwhelmed by them. But there are a few bright notes in the situation; there is a break in the clouds.

In 1969, for instance, the rise in the crime rate slowed considerably. Where the crime rate had climbed by 17 per cent in 1968, the rate of increase slowed to 11 per cent last year.

In the case of juveniles referred to juvenile court jurisdiction, the rate dropped in 1968 for the second year in a row--from 49 per cent to 46.

What this tells us is that the task is not hopeless. We have made some progress, and we will make more.

We must persist in the fight against crime, and the American people must join the Congress and all of our state and local law enforcement agencies in combatting it.

As for groups like the Child Evangelism Conference, there is no question that they can play a useful role.

We know that a child forms his opinions and his outlook upon life during his early years. We know that his early instruction and the guidance given him in matters of morals are most important in determining how he will conduct himself in later life. We know that the course of a man's entire life often is charted during his childhood years.

And so those of us in other fields of endeavor look to Child Evangelism to reach out and help our children--to give them the great guidance that flows from the truths of Christianity and the wisdom of its founder, Jesus Christ.

Child Evangelism reaches children because it approaches them on a level they can understand. It offers them guidance; it offers them strength. It offers them the emotional security without which every man is lost.

So to the men and women of the Child Evangelism Conference I say continue and expand your wonderful work, knowing that you are helping us all--not only the little children but everyone in this great land of ours.

#

Distribution: 10 copies Mr. Ford

M Office Copy

AN ADDRESS BY REP. GERALD R. FORD, R-MICH.
REPUBLICAN LEADER, U.S. HOUSE OF REPRESENTATIVES
BEFORE THE INTERNATIONAL CHILD EVANGELISM FELLOWSHIP CONFERENCE
AT KNOLLCREST CAMPUS, CALVIN COLLEGE
GRAND RAPIDS, MICHIGAN
7 P.M. MONDAY, MAY 25, 1970

FOR RELEASE ON DELIVERY

As it is written in Proverbs: "Train up a child in the way he should go: and when he is old, he will not depart from it."

We are all here because we love children; and we are here because we love God.

It is a pleasure for me to join you at your International Conference, and it is an honor and a privilege to be your keynote speaker.

Recent events would make it appear that these are dark hours through which we are presently living, and indeed our problems are major and manifold. But I am by nature cautiously optimistic, and I agree with those who say that the darkest hours are those which herald the dawn.

The light is coming. Light will soon be shed on the pressing problems which are facing Americans today--the war in Indochina, the continuing rise in the cost of living, the constant rise in the crime rate.

I have chosen to talk with you tonight about the staggering problems which still confront us in the war against crime. But let me first comment briefly on Vietnam and Cambodia and on inflation.

Whether or not you agree with our continued effort to gain self-determination for the South Vietnamese, the fact remains that our attack against the invaders of Cambodia--the North Vietnamese--is proving enormously successful. We have seized enough enemy arms to outfit more than 70 enemy battalions of 500 men each. We have captured more enemy ammunition than the Communists would use in two years. We have seized enough enemy rice to feed more than 10,000 troops for a year. We have set back the enemy by six to eight months. We have saved American and South Vietnamese lives. I think we have made it possible to withdraw more than 150,000 additional U.S. troops from South Vietnam over the next 12 months.

On inflation I will say that the restraints employed by the Administration will definitely show results in the months ahead and will make it possible to modestly stimulate the economy without reviving strong inflationary pressures. I look for good progress in the immediate future. (more)

Now I would like to talk with you about another most serious problem in America--our failure to deal effectively with juvenile crime. I believe this failure has become a near disaster for our country.

Arrests of juveniles for serious crime increased 78 per cent nationally from 1960 to 1968, the last year for which we have official figures. The rate climbs higher daily.

The statistics on juvenile crime are even more tragic and disturbing than those for crime as a whole.

Of all aspects of crime, none is more discouraging than juvenile delinquency.

One out of every nine children will be referred to a juvenile court for an act of delinquency before his 16th birthday.

Nearly one-half of all serious crimes--murder, rape, robbery, assault, burglary, larceny, auto theft--is committed by persons under 18.

The most arrests are of persons 15 and 16 years of age.

Juvenile crime accounts in large measure for the Nation's soaring crime rate.

According to the F.B.I., arrests of youths under 18 years of age made up more than half of the total national crime increase of 122 per cent from 1960 to 1968.

While just 16 per cent of the Nation's population is 10 through 17 years of age, they accounted for 46 per cent of serious crime in 1968.

Once involved in crime, a juvenile is likely to commit repeated criminal acts. All too frequently he crosses the threshold into adult crime.

In an effort to prevent juvenile crime--and to rehabilitate those who slip into delinquency, Congress in 1968 enacted the Juvenile Delinquency Prevention and Control Act.

Under this Act the Federal Government pays up to 90 per cent of the cost of anti-delinquency programs sponsored by state and local public agencies and private non-profit organizations. It pays up to 60 per cent for special purpose facilities for rehabilitating delinquent youths.

The causes of juvenile crime are unclear. The methods of prevention are uncertain. Rehabilitation in all too many cases is unsuccessful.

Certainly there is a place in juvenile delinquency prevention for Child Evangelism, a place for the vital programs that the CEF has been carrying out.

A point to remember is that a busy teenager, in school, playing in sports, or working at a part-time job has no time for delinquency. It is also most important

(more)

that God be a part of his life, even if he is reluctant to admit Him as a companion.

In recent years a new development has made the problem of juvenile waywardness more acute.

Drug abuse has exploded onto the scene, with devastating results. Drug abuse in this country is mounting at a startling rate, and the most shocking aspect of it is the extent to which it involves the very young.

Between 1960 and 1968 there was a 322 per cent increase in the number of arrests related to narcotic drugs. Between 1967 and 1968 alone, there was a 64 per cent increase.

For the year 1968, the F.B.I.'s Uniform Crime Reports indicate that 162,177 persons were arrested by State and local authorities for narcotic and marijuana drug violations.

Of this number, 43,200 were under the age of 18, and 6,243 were under the age of 15.

These figures need little explanation, except to say that for every individual apprehended, scores of others remain undetected. I might add that the average age of all the drug violators apprehended was 21 years.

So we are dealing with a youth problem. That much is clear.

The appalling fact is that drug abuse arrests of juveniles, those 18 or under, increased by 1,860 per cent during the first eight years of the 1960s.

We can only conclude that drug abuse is threatening the health and safety of our society.

Consider what has happened in New York--the only city which has maintained longterm records related to drug abuse.

In the first five years of the Sixties, about 300 people in New York City died from heroin-related causes. But in 1969--in just that 12-month period alone--more than 900 people died of such causes. And of these, 224 were teen-agers-- 24 of them under the age of 15. It is reported that heroin is in every high school in New York City, public and private.

This is just one indication of the accelerated trend in the use of hard drugs. Drug abuse has increased phenomenally in virtually every major metropolitan area, reports show.

What is most worrisome is that the age level of drug users is constantly decreasing.

Five years ago, college seniors were virtually the only students engaging in marijuana use. But in just two or three years, "pot" smoking moved down to the

(more)

freshman level and in another two years it had become a problem in high schools. Now it is getting into the junior high schools.

I would make the point here that the greatest drug abuse occurs in metropolitan areas. The least drug abuse among young people is found in rural or very small town settings.

The most commonly abused drugs include heroin, marijuana, LSD and a whole host of other synthetic hallucinogens, the amphetamines or pep pills and the barbiturates or sleeping pills.

Let me emphasize the danger to our youth by pointing out that in 1968 more than one-half of the individuals arrested for narcotics violations were persons under 21 years of age. Of those involved with marijuana, 65 per cent were under 21 and 29 per cent were persons under 18.

What should be done with a child found using marijuana? He certainly should be administered some good fatherly discipline. If that fails, the parent should seek outside counseling--the family physician or school counselor and certainly a clergyman.

Marijuana is not a physically addictive drug. The vast majority of people who experiment with it try it from one to 10 times and then drop it. But there is a correlation between frequent use of marijuana and the use of other drugs. The chronic marijuana user becomes exposed to what has become known as the drug subculture. In this environment, he is thrown together with people who use other drugs. And it is a matter of record that the explosion in marijuana use has been accompanied by a sharp rise in heroin use.

It seems reasonable to assume that if many individuals did not get involved with marijuana they would never become users of the more potent and dangerous drugs.

We now have a drug control bill before the Congress--it has already passed the Senate--which would make the simple possession of marijuana a misdemeanor on the first offense. Under this bill, the first offender could be given probation by a judge and, if he completes his probation satisfactorily, have his record expunged. But a second offense would be judged a felony. I expect the House to approve this bill because the need for new legislation to deal with the drug problem is widely recognized in the Congress.

In the long term, I believe that education is the best way to curb drug abuse in the United States. We need to persuade our young people that drug abuse leads only to self-destruction and a terrible hurt for members of the addict's family.

(more)



Drug abuse also, of course, contributes heavily to the crime toll throughout the United States each year.

It is estimated that 50 to 75 per cent of the crimes committed on our Nation's streets are perpetrated by drug addicts. And so one step we must take is a massive effort to halt the importation of illegal drugs into the United States. This we are trying very hard to do, particularly as regards Turkey and Mexico. In the case of Turkey, for instance, we are trying to get that country to stop opium production, or at least to control its manufacture and distribution.

If we can eliminate Turkey as a source of opium, we can reduce the amount of heroin coming into the United States by at least 50 per cent. Officials of the U.S. Justice Department believe we can reach that goal in two or three years.

Let me stress now that although there might seem to be no connection the drug-related street crimes I cited a bit earlier are directly associated with organized crime. It is organized crime--the Mafia--which makes illegal narcotics available in large volume in the United States. Therefore much of our street crime flows directly from the activities of organized crime.

What are we doing to fight crime? There is no question that crime control is primarily a state and local responsibility but there is also much that the Federal Government can do to help.

Legislatively, help was provided in 1968 and I hope it will be forthcoming this year.

In 1968 Congress passed a law which authorized Federal grants to upgrade state and local police forces and provide for greater crime control. Congress that year also passed the juvenile delinquency control act I previously cited.

The present Congress has a host of Administration anti-crime bills before it, providing new tools to fight organized crime, better ways to handle drug abuse, more judges, and a variety of other crime-fighting weapons.

The Senate has responded fairly swiftly but has weakened some Administration proposals. In the House there has been some foot-dragging by those who see every strong anti-crime measure as unconstitutional. I hope all of the differences will be soon resolved so that we can step up the war against crime.

Specifically in the area of juvenile delinquency, the House Judiciary Committee is considering the Federal Youth Corrections Act, which would authorize the Board of Parole Examiners to interview youthful offenders, and amendments to the 1968 Omnibus Crime Control and Safe Streets Act, which would provide additional

(more)

funding to improve state and local correctional facilities for juveniles.

I have cited some grim statistics on crime, and one could easily feel overwhelmed by them. But there are a few bright notes in the situation; there is a break in the clouds.

In 1969, for instance, the rise in the crime rate slowed considerably. Where the crime rate had climbed by 17 per cent in 1968, the rate of increase slowed to 11 per cent last year.

In the case of juveniles referred to juvenile court jurisdiction, the rate dropped in 1968 for the second year in a row--from 49 per cent to 46.

What this tells us is that the task is not hopeless. We have made some progress, and we will make more.

We must persist in the fight against crime, and the American people must join the Congress and all of our state and local law enforcement agencies in combatting it.

As for groups like the Child Evangelism Conference, there is no question that they can play a useful role.

We know that a child forms his opinions and his outlook upon life during his early years. We know that his early instruction and the guidance given him in matters of morals are most important in determining how he will conduct himself in later life. We know that the course of a man's entire life often is charted during his childhood years.

And so those of us in other fields of endeavor look to Child Evangelism to reach out and help our children--to give them the great guidance that flows from the truths of Christianity and the wisdom of its founder, Jesus Christ.

Child Evangelism reaches children because it approaches them on a level they can understand. It offers them guidance; it offers them strength. It offers them the emotional security without which every man is lost.

So to the men and women of the Child Evangelism Conference I say continue and expand your wonderful work, knowing that you are helping us all--not only the little children but everyone in this great land of ours.

#

READING COPY

GRAND RAPIDS, MICH.

MAY 25, 1970

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF THE MINORITY LEADER
WASHINGTON, D.C. 20515

OFFICIAL BUSINESS

Gerald R. Ford
M.C.

Q | Ford speech almost
verbatim kept inserted
obscure material.

MONDAY
7:00 P.M.

INTERNATIONAL CHILD EVANGELISM
FELLOWSHIP CONFERENCE

KNOLLCREST CAMPUS
CALVIN COLLEGE



TEXT

HOUSE OF REPRESENTATIVES, U.S.
OFFICE OF THE MINORITY LEADER
PUBLIC DOCUMENT
OFFICIAL BUSINESS

GRAND RAPIDS, MICH

MAY 25, 1970

Gerald R. Ford
M.C.

P/ No one from any local
news media contacted me.

MONDAY

7:00 P.M.

INTERNATIONAL CHILD EVANGELISM
FELLOWSHIP CONFERENCE

KNOLL CREST CAMPUS
CALVIN COLLEGE

