

107TH CONGRESS
2D SESSION

H. CON. RES. 445

Expressing the sense of Congress supporting vigorous enforcement of the
Federal obscenity laws.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2002

Mr. SMITH of Texas (for himself, Mr. HOSTETTLER, Mr. PITTS, Mr. PENCE, Mr. GREEN of Wisconsin, Mr. PHELPS, Mr. TERRY, Mr. OSBORNE, Mr. ENGLISH, Mr. WELDON of Florida, Mr. RYUN of Kansas, Mr. ADERHOLT, Mr. SCHAFER, Mr. SULLIVAN, Mr. STEARNS, Mr. AKIN, and Mr. PICKERING) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

CONCURRENT RESOLUTION

Expressing the sense of Congress supporting vigorous
enforcement of the Federal obscenity laws.

Whereas the Supreme Court in *Miller v. California*, 413 U.S. 15 (1973) held that obscene material is “unprotected by the first amendment” (413 U.S. at 23) and that obscenity laws can be enforced against “‘hard core’ pornography” (413 U.S. at 28);

Whereas the Miller Court stated that “to equate the free and robust exchange of ideas and political debate with commercial exploitation of obscene material demeans the

grand conception of the first amendment and its high purposes in the historic struggle for freedom.” (413 U.S. at 34);

Whereas the Supreme Court in *Paris Adult Theatre I v. Slaton*, 413 U.S. 49 (1973) recognized that there are legitimate governmental interests at stake in stemming the tide of obscene materials, which include—

- (1) protecting “the quality of life and total community environment” (413 U.S. at 58);
- (2) protecting “public safety” (413 U.S. at 58);
- (3) maintaining “a decent society” (413 U.S. at 59–60);
- (4) protecting “the social interest in order and morality” (413 U.S. at 61); and
- (5) protecting “family life” (413 U.S. at 63);

Whereas Congress, in an effort to protect these same legitimate governmental interests, enacted legislation in 1988 to strengthen federal obscenity laws and in 1996 to clarify that use of an interactive computer service to transport obscene materials in or affecting interstate or foreign commerce is prohibited;

Whereas the 1986 Final Report of the Attorney General’s Commission on Pornography found that “increasingly, the most prevalent forms of pornography” fit the description of “sexually violent material” (p. 323) and that “an enormous amount of the most sexually explicit material available” can be categorized as “degrading” to people, “most often women” (p. 331);

Whereas the Internet has become a conduit for hardcore pornography that now reaches directly into tens of millions of American homes, where even small children can be ex-

posed to Internet obscenity and older children can easily find it;

Whereas a national opinion poll conducted in March 2002 by Wirthlin Worldwide marketing research company found that 81 percent of adult Americans say that “Federal laws against Internet obscenity should be vigorously enforced”;

Whereas a May 2 report from the National Academies’ National Research Council stated that “aggressive enforcement of existing antiobscenity laws can help reduce children’s access to certain kinds of sexually explicit material on the Internet”;

Whereas on April 16, 2002, the United States Supreme Court in Ashcroft v. Free Speech Coalition invalidated a Federal law aimed at “virtual child pornography”;

Whereas vigorous enforcement of obscenity laws can help reduce the amount of “virtual child pornography” now readily available to sexual predators; and

Whereas it continues to be the desire of the People of the United States of America and their representatives in Congress to recognize and protect the governmental interests recognized as legitimate by the United States Supreme Court in Paris Adult Theatre I v. Slaton, 413 U.S. 49 (1973): Now, therefore be it

- 1 *Resolved by the House of Representatives (the Senate*
- 2 *concurring), That it is the sense of Congress that the Fed-*
- 3 *eral obscenity laws should be vigorously enforced through-*
- 4 *out the United States.*

