

Congress has a compelling interest to protect children from sexual exploitation. Sexually explicit computer images that are virtually indistinguishable from images of real minors engaged in sexually explicit conduct poses a serious danger to future prosecutions involving child pornography. The April 16 Supreme Court decision gives protection to child molesters who may claim that the images they possess are not those of real children, insisting that the government prove beyond a reasonable doubt that the images are not computer-generated. To prove a child is real will require identifying the actual child. This is usually impossible since many of the victimized children are from third world countries. The impossible task of identifying the child will allow child molesters and pornographers to escape prosecution for their crimes against children.

Child pornography, virtual or otherwise, is detrimental to our nation's children. Regardless of the method of its production, child pornography is used to promote and incite deviant and dangerous behavior in our society.

I urge each of my colleagues to join me in support H.R. 4623, which will address the April 16 Supreme Court decision in *Ashcroft v. the Free Speech Coalition* to ensure the continued protection of children from sexual exploitation.

Mr. PAUL. Mr. Speaker, as a parent, grandparent and OB-GYN who has had the privilege of delivering over 4,000 babies, I share the revulsion of all decent people at child pornography. Those who would destroy the innocence of children by using them in sexually explicit material deserve the harshest punishment. However, the Child Obscenity and Pornography Prevention Act (H.R. 4623) exceeds Congress' constitutional power and does nothing to protect any child from being abused and exploited by pornographers. Instead, H.R. 4623 redirects law enforcement resources to investigations and prosecutions of "virtual" pornography which, by definition, do not involve the abuse or exploitation of children. Therefore, H.R. 4623 may reduce law enforcement's ability to investigate and prosecute legitimate cases of child pornography.

H.R. 4623 furthers one of the most disturbing trends in modern politics, the federalization of crimes. We have been reminded by both Chief Justice William H. Rehnquist and former U.S. Attorney General Ed Meese that more federal crimes, while they make politicians feel good, are neither constitutionally sound nor prudent. Rehnquist has stated that "The trend to federalize crimes that traditionally have been handled in state courts . . . threatens to change entirely the nature of our federal system." Meese stated that Congress' tendency in recent decades to make federal crimes out of offenses that have historically been state matters has dangerous implications both for the fair administration of justice and for the principle that states are something more than mere administrative districts of a nation governed mainly from Washington.

Legislation outlawing virtual pornography is, to say the least, of dubious constitutionality. The constitution grants the federal government jurisdiction over only three crimes: treason, counterfeiting, and piracy. It is hard to stretch the definition of treason, counterfeiting, or piracy to cover sending obscene or pornographic materials over the internet. Therefore, Congress should leave the issue of whether or

not to regulate or outlaw virtual pornography to states and local governments.

In conclusion, Mr. Speaker, while I share my colleagues' revulsion at child pornography, I do not believe that this justifies expanding the federal police state to outlaw distribution of pornographic images not containing actual children. I am further concerned by the possibility that passage of H.R. 4623 will divert law enforcement resources away from the prosecution of actual child pornography. H.R. 4623 also represents another step toward the nationalization of all police functions, a dangerous trend that will undermine both effective law enforcement and a constitutional government. It is for these reasons that I must oppose this well-intentioned but fundamentally flawed bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

□ 1430

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4623, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### SEX TOURISM PROHIBITION IMPROVEMENT ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4477) to amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism, as amended.

The Clerk read as follows:

H.R. 4477

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Sex Tourism Prohibition Improvement Act of 2002".*

#### SEC. 2. SECTION 2423 AMENDMENTS.

(a) *IN GENERAL.*—Section 2423 of title 18, United States Code, is amended by striking subsection (b) and inserting the following:

*"(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT.*—A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

*"(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES.*—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

*"(d) ANCILLARY OFFENSES.*—Whoever arranges, induces, procures, or facilitates the trav-

el of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 15 years, or both.

*"(e) ATTEMPT AND CONSPIRACY.*—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

*"(f) DEFINITION.*—As used in this section, the term 'illicit sexual conduct' means (1) a sexual act (as defined in section 2246) with a person that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person who the individual engaging in the commercial sex act, knows or should have known has not attained the age of 18 years."

(b) *CONFORMING AMENDMENT.*—Section 2423(a) of title 18, United States Code, is amended by striking "or attempts to do so,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4477 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4477, the Sex Tourism Prohibition Improvement Act of 2002, addresses a number of problems related to persons who travel to foreign countries and engage in illicit sexual relations with minors. According to the National Center for Missing and Exploited Children, child-sex tourism contributes to the sexual exploitation of children and is increasing. There are more than 100 websites devoted to promoting teenage commercial sex in Asia alone. Because poorer countries are often under economic pressure to develop tourism, those governments often turn a blind eye towards this devastating problem. As a result, children around the world have been trapped and exploited by the sex tourism industry.

While much of the initial attention on child-sex tourism focused on Thailand and other countries of Southeast Asia, it has become disturbingly clear in recent years that there is no hemisphere, continent, or region unaffected by the child-sex trade. While it is difficult to precisely measure the exact number of children affected by sex tourism, experts agree that the number is well into the millions worldwide.

Some of the foreign countries experiencing the most significant problems with sex tourism, such as Nicaragua, Costa Rica, Thailand, and the Philippines, have requested that the United States act to deal with this growing

problem. For reasons ranging from ineffective law enforcement, lack of resources, corruption or generally immature legal systems, U.S. sex tourists often escape prosecution in those countries. It is in those instances that the United States has an interest in pursuing criminal charges in the United States.

Current law requires the Government to prove that the defendant traveled to a foreign country with the intent to engage in sex with a minor. H.R. 4477 eliminates the intent requirement where the defendant completes the travel and actually engages in the illicit sexual activity with a minor.

The bill also criminalizes the actions of sex tour operators by prohibiting persons from arranging, inducing, procuring or facilitating the travel of a person knowing that such a person is traveling in interstate or foreign commerce for the purpose of engaging in illicit sexual conduct with a minor.

The legislation will also close significant loopholes in the law that persons who travel to foreign countries seeking sex with children are currently using to their advantage in order to avoid prosecution. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

I rise in opposition to the bill. The bill is way overbroad in its application, so much so that it would make it a felony, up to 15 years in prison, for the older of two teen-age high school students to attempt or even talk about and agree to travel across State lines or foreign boundaries to engage in consensual sexual activity, including what is referred to as heavy petting, since the provision covers even touching through the definition of sexual act.

It is already a serious felony with up to 15 years in prison for such teenagers, one 19 and one 15, to actually engage in these consensual activities in their community, and now we make it another serious felony for them to even to attempt to travel from Virginia to Washington, D.C., to engage in consensual activities or even to just agree to it, since conspiracy would be a crime.

Certainly there are individuals in situations covered by the bill with which we all can agree, such as sexual predators who prey upon children, but we do not want to put wayward teenagers in this group as the bill does.

During the committee markup on the bill, I offered an amendment to eliminate consensual activities between teenagers, but that amendment was rejected.

Since the bill covers foreign travel by United States citizens and resident aliens traveling from the United States, we are dictating to the world our notions of serious felony crimes, regardless of the cultural norms of other countries. Just as the average age of marriage in this country was 15 for a female and 21 for a male only

about 50 years ago, other countries have much younger averages now than does the United States and provide for consensual relationships to begin between young people much earlier than we expect in the United States.

This bill covers commercial sex transactions regardless of age or consent of the participants; and since States as well as all civilized foreign countries have laws against the underlying activities at which this bill is aimed, there is no demonstrated need to add more Federal criminal laws to go after consensual activities between teens which have nothing to do with the title or the focus of the bill.

There are some valuable provisions in the bill, and it covers much activity, but it also covers much activity for which a 15-year penalty would actually be bizarre. I hope we would defeat the motion to suspend the rules so that the bill could be amended to include just the valuable provisions without including activities which should not be included.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH), the subcommittee chairman.

Mr. SMITH of Texas. Mr. Speaker, we all need to thank the chairman the Committee of the Judiciary for introducing H.R. 4477, the Sex Tourism Prohibition Improvement Act of 2002. This legislation amends the Federal criminal code to strengthen our laws against those who travel or those who arrange such travel into and out of the United States for the purpose of sexually exploiting children.

Each year more than one million children worldwide are forced into child prostitution, trafficked and sold for sexual purposes or used in child pornography. This world sex market is a multi-billion dollar industry that denies children their rights, their dignity, and their childhood.

Children in developing countries are vulnerable to this sexual exploitation due to a number of factors, including poverty, social dislocation, family breakdown, and homelessness. In some cases, children seek out customers for economic survival. These circumstances could not change the fact that sex with children is morally reprehensible and widely condemned.

Mr. Speaker, this legislation will send a message to those who go to foreign countries to exploit children that no one can abuse a child with impunity, no matter where the offense is committed.

Under current law, the intent to engage in sexual acts with a minor in a foreign country must be formed prior to traveling. Such intent is often difficult to prove without direct arrangements booked through obvious child sex-tour networks.

This legislation will allow the government to prosecute individuals who travel to foreign countries and engage

in illicit sexual conduct with a minor regardless of where the intent to do so was formed.

Mr. Speaker, Congress can help reduce the number of children abused and exploited by passing this legislation today.

Mr. SCOTT. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me time. I thank the chairman for bringing this important legislation forward.

When most Americans travel overseas they do so for educational purposes or for relaxation or simply to immerse themselves in another culture, but others have a more perverse goal in mind. They go with the explicit purpose to lure children in and exploit children with illicit sexual activity. This is something we cannot as Americans countenance.

In my home State of Arizona a television station went down to Mexico to the city of Puerto Vallarta and went to the beach and had someone pose as an underage, clearly informing those who propositioned him that he was under age. He was propositioned several times very quickly. Men prowl the beaches there propositioning kids as young as 8 years old, and it goes on day in and day out. Because of the dire poverty in some areas and lax enforcement, Americans believe that they can get away with that kind of activity, and nothing is to stop them except for their conscience.

This bill says not only do they have to worry about their conscience but they have to worry about the Federal Government coming after them. We will not allow this activity to go forward.

It is clear that Americans traveling from one State to another cannot engage in this kind of activity and to exploit young children. They should not be able to travel to other countries for the purpose of using children there for illicit sexual activity. This is simply wrong.

This legislation will go a long way towards closing the loophole that exists that requires prosecutors to prove intent. Whether intent is formed here or in the foreign country, it should not matter. What matters is the act itself, and we should not allow it to happen.

Again, I thank the chairman. I urge support of the bill.

Mr. PAUL. Mr. Speaker, as appalling as it is that some would travel abroad to engage in activities that are rightly illegal in the United States, legislation of this sort poses many problems and offers little solution. First among these is the matter of national sovereignty. Those who travel abroad and break the law in their host country should be subject to prosecution in that country: it is the responsibility of the host country—not the U.S. Congress—to uphold its own laws. It is a highly unique proposal to suggest that committing a crime in a foreign country against a non-U.S. citizen is

within the jurisdiction of the United States Government.

Mr. Speaker, this legislation makes it a federal crime to "travel with intent to engage in illicit sexual conduct." I do think this is a practical approach to the problem. It seems that this bill actually seeks to probe the conscience of anyone who seeks to travel abroad to make sure they do not have illegal or immoral intentions. It is possible or even advisable to make thoughts and intentions illegal? And how is this to be carried out? Should federal agents be assigned to each travel agency to probe potential travelers as to the intent of their travel?

At a time when federal resources are stretched to the limit, and when we are not even able to keep known terrorists out of our own country, this bill would require federal agents to not only track Americans as they vacation abroad but would require that they be able to divine the intentions of these individuals who seek to travel abroad. Talk about a tall order! As well-intentioned as I am sure this legislation is, I do not believe that it is a practical or well-thought-out approach to what I agree is a serious and disturbing problem. Perhaps a better approach would be to share with those interested countries our own laws and approaches to prosecuting those who commit these kinds of crimes, so as to see more effective capture and punishment of these criminals in the countries where the crime is committed.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H.R. 4477, the "Sex Tourism Prohibition Improvement Act." Chairman SENSENBRENNER, I thank you for moving this important piece of legislation through your Committee to the House floor and commend you for your leadership on this most serious issue. As the prime author of the "Victims of Trafficking and Violence Protection Act of 2000," legislation that strengthens penalties against those running trafficking rings and provides services as well as protection for victims, I have followed this issue closely.

Sex tourism is a heinous, deplorable activity that is on the rise around the world. In many cases, men prey upon underage girls in prostitution rings who are forced sex slaves. We know that Americans are traveling abroad as part of the sex tourism industry in large numbers. Sadly, it is estimated that there are more than 25 organized sex tour companies based in Miami, New York, and San Diego alone.

Current law states that a person can only be held liable for traveling internationally to engage in sex with a minor if prosecutors can prove he intended to do so before leaving this country. As you might imagine, proving intent in such cases is extremely difficult, basically creating a loophole in the law for men who go abroad to have sex with minors, which in the United States is considered statutory rape.

Thankfully, Chairman SENSENBRENNER's bill will close this intent loophole in the sex tourism industry. While the "Victims of Trafficking and Violence Protection Act of 2000," seeks to punish those running sex trafficking rings and nations that fail to combat human trafficking, the enactment of H.R. 4477 into law will give law enforcement officials the additional powers they need in prosecuting the accomplices of the sex traffickers, those who feed into the industry abroad by paying for sex with minors or other illicit sexual conduct with another person.

Last week, I chaired the International Relations Committee's hearing on the recently released State Department's annual Trafficking in Person's Report. This report ranks countries based on their efforts to combat trafficking, placing them in three different tiers. Countries that fail to take even minimal steps to combat trafficking and are placed on the lowest tier, Tier 3, and will be ineligible to receive non-humanitarian foreign assistance, beginning with the foreign aid budget for FY 2004.

Although some progress has been made, much, much work still needs to be done as the exploitation and bondage of young girls in the sex industry continues to run rampant both in this country and throughout the world. At our hearing, videos were played by human rights groups showing girls as young as 8 and 9 years old being rescued from sex trafficking rings in India and Cambodia. While this is practically unimaginable for decent people to fathom, those involved with the sex industry reason that the younger the girl, the less chance of her infecting the sex tourist with HIV/AIDS.

Sadly we know that many Americans go abroad to prey on young girls in other countries because laws protecting women are very weak, non-existent, or not enforced. I was recently presented a videotape containing undercover footage taken by FOX News near an American military installation in South Korea that shows American military personnel on assignment patrolling establishments where their fellow soldiers were soliciting sex from forced prostitutes.

As Chairman of the House Veteran's Affairs Committee, I have the greatest respect for the men and women who serve in the United States military and it greatly saddens me to report on this case in South Korea before this chamber. A number of my colleagues have joined me in signing a letter to Secretary Rumsfeld asking him to conduct a full investigation into this case.

We must expect the absolute best from the men and women who serve our country while living in foreign countries, both when they are on and off duty. We must also expect any American traveling or living abroad to abide by the standards of decency and respect for women we maintain and set by our laws here in the U.S.—standards we attempt to promote throughout the world through our foreign policy and diplomacy.

As members of Congress, we must continue to fight against the exploitation of women and children through sex trafficking until every person imprisoned in the sex industry is set free. Again, I commend Chairman SENSENBRENNER for his leadership on this issue.

Mrs. MALONEY of New York. Mr. Speaker, I rise in strong support of this legislation.

The exploitation of the world's young women and children in sex trafficking is a tragic human rights offense. Many of these victims are kidnapped, sold, or tricked into brothel captivity.

Trafficking isn't just a problem in other countries. Each year, men, women, and children from all over the world are brought into the United States for the sole purpose of being bought and sold by American citizens for commercial sex. Some estimates place the number as high as 750,000 individuals over the past decade. Instead of dreams of better jobs and better lives, they are trapped into a nightmare of coercion, violence, and disease.

It is important that we protect the victims of the sex trade industry, and punish the predators that exploit them. Made up of recruiters, traffickers, brothel owners, customers and other crime syndicates, the industry profits from the victimization of individuals who cannot defend themselves.

I have worked on the trafficking issue for many years. To stop the actions of sex tour operators like Big Apple Oriental Tours, which is based in New York City, I wrote to the District Attorney and to then-U.S. Attorney General Janet Reno asking them to use State and Federal laws to stop U.S.-based tour groups that feed off the sexual exploitation of impoverished women and young girls in developing countries. New York law prohibits promoting prostitution or profiting from prostitution, yet Big Apple Tours was doing just that.

This legislation would set civil and criminal penalties for certain individuals who engage in sex trafficking. Furthermore, it sets similar penalties for those individuals who arrange these meetings.

We must do more to stop the many human rights abuses inflicted on men, women, and children around the world. Preventing trafficking is an important step to ending the sex trade industry. Although we continue to make important advances in the rights of women throughout the world, as long as there are women whose freedoms, livelihoods, bodies, and souls are held captive because of trafficking, our work will never be done.

I thank the gentleman from Wisconsin for his work on this issue and urge a "yes" vote on this bill.

Mr. SCOTT. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4477, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### NEW HAMPSHIRE-VERMONT INTERSTATE SCHOOL COMPACT CONSENT ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3180) to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

The Clerk read as follows:

H.R. 3180

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amendment to the New Hampshire-Vermont Interstate School Compact which have been agreed to by such*