

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 5, SCHOOL IMPROVEMENT ACT OF 1987

Mr. DANNEMEYER. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DANNEMEYER moves that the managers on the part of the House at the conference on H.R. 5 and the Senate amendment thereto be instructed to agree to section 7003 of the Senate amendment.

PARLIAMENTARY INQUIRY

Mr. DYMALLY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. DYMALLY. Mr. Speaker, could the gentleman from California tell me how much time he will consume of this?

Mr. DANNEMEYER. Under the rules, I have an hour. We are going to use most of that time, I suspect.

Mr. DYMALLY. Mr. Speaker, I thank the gentleman.

Mr. DANNEMEYER. Mr. Speaker, this issue came to the attention of the House 21 days ago when this Member sought recognition to make this motion. On that day another motion was recognized by the Speaker to be made, and under the rules of the House, any time after conferees are appointed another motion to instruct can be filed after 20 days. This is the reason this motion is made today.

This issue is very simple. It is time that we in the Congress of the United States vote up or down on the issue of whether or not we are going to have dial-a-porn in America. We believe that the law prohibited it at least on the basis of 47 U.S.C. 223, which provides as follows:

Whoever knowingly in the District of Columbia or in interstate or foreign communication, by means of telephone, makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent, shall be fined not more than \$500 or imprisoned for not more than six months, or both.

That would appear to be self-explanatory to prohibit dial-a-porn in this country; but the Federal Communications Commission and the Department of Justice declined to enforce section 223 because they interpreted the law to apply only to persons who utter obscene words during calls that they place. In other words, they interpreted this law to say that if the obscene language came from a recording, the law did not prohibit it.

This Member does not read the language the way the Justice Department and the FCC did, but that is the conclusion they came to.

As a result of that interpretation, Congress in late 1983 amended section 223 trying to strike a balance on this issue and by an act of Congress at that time it made it a crime to make any obscene or indecent communication

for commercial purposes to any person under 18 years of age or to another other person without that person's consent.

Now, that is the difficulty we had because we thought we prohibited dial-a-porn with respect to children under 18 or persons who did not consent to receive it, but that posed a great difficulty for purposes of implementation, or to be precise, how does anyone know the age of a person making the telephone call? You really do not. You cannot control that.

So as a result of this being the law, that is, allegedly prohibiting obscene calls by any person under 18 years of age, we have developed a great deal of data, constituents communicating to us from all over the country complaining about the fact that telephone calls were being made by members of households, by children and tremendous telephone bills were being run up.

In fact, according to Tele Marketing Inc., dial-a-porn telephone sex has achieved astonishing financial growth and now grosses \$2.4 billion a year since 1983. It is an amazing growth of an industry dealing in filth.

In addition, half of all phone calls using California's 976 extra billing prefix are for pornographic tape messages or live pornographic discussion.

According to the California Public Utilities Commission, of the \$64.2 million collected by Pacific Bell between July 1986, and May 1987, for 976 calls, \$40.1 million went to adult services; yet the PUC is considering methods for complying with State legislation mandating that customers be allowed to block the service from their phones for a minimum fee.

The Senate considered this issue and voted by 98 to 2 to adopt the amendment that I am talking about at this time, that is, to prohibit dial-a-porn in this country.

We would achieve that by amending the section of the law that now prohibits dial-a-porn to any person under 18 years of age or to any other person without that person's consent. We would strike that language out of the law, which would then have the effect of saying in the District of Columbia or in interstate or foreign communications by means of telephone makes directly or by recording device any obscene or indecent communication for commercial purposes, regardless whether the maker of such communication placed the call.

It would also eliminate from the existing law the section that reads as follows:

It is a defense to a prosecution under this subsection that the defendant restricted access to the prohibited communication to persons 18 years of age or older in accordance with procedures which the Commission shall prescribe by regulation.

In other words, that provision making a defense would be eliminated from the law.

The net effect of this motion to instruct conferees would be to make illegal dial-a-porn in America. Any person who was involved in it would then face prosecution by a U.S. attorney or by an appropriate public authority.

It is not pleasant for any of us to read some of the trash that has come into the airwaves or telephone or dial-a-porn, but for Members to have an appreciation of some of the material that is going out over the telephone today, I would like to read just a portion of the information that has been brought to my attention:

I would love to squeeze those nice . . . 12-year-old, 13-year-old virgins and they're so tight . . . took off her training bra and took the little panties off pure virgins . . . I chewed on her little ears, she just cried. She loved it even though she didn't know it.

That was on September 12, 1987.

Then on September 22, 1987, this was recorded:

Yeah, pat baby's little legs and take off my ditya. Oh, spank me harder daddy. Baby wants her rattle and you know where baby wants it. —

It goes on and on, just plain trash. It does nothing to elevate the status of our society at all. I do not think there is any question that the law of this country proscribes, that is, prohibits pornographic material. The Supreme Court of the United States has made decisions on many occasions affirming that principle, the most noteworthy of which is Miller versus California in 1973, which established that obscenity is not protected by the first amendment.

This motion to instruct conferees, which I repeat was adopted by a vote of 98 to 2 on the Senate side, is supported by the Citizens for Decency Through Law, Inc. They have prepared an extensive brief asserting that the issue is constitutional, that is to say, we may by law prohibit dial-a-porn in this country.

Some of my opponents who discussed this issue 3 weeks ago when the matter came up said, "Well, it doesn't make sense for us to adopt this law prohibiting dial-a-porn, because when we do that it is only going to be tied up in the courts on the issue of whether or not to do so is constitutional."

To my good friends who urge or argue that point of view, let me make this observation. When this provision becomes the law, and I believe that it will, there is little doubt in my mind that the pornography industry in America, one of the major industries in our country, will immediately file suit to enjoin the constitutionality or the enforceability of this provision until such time as the constitutionality is adopted.

□ 1330

That suit will be joined undoubtedly by their colleagues and friends in the American Civil Liberties Union who believe that everybody in America has rights but nobody has duties, every-

body has privileges but nobody has obligations.

They will look around the country and in forum shopping in the court system undoubtedly find a Federal court judge who is sympathetic to that point of view that there should be no restriction on the ability of such material to flow in interstate commerce and undoubtedly they will procure from that judge an injunction or prohibition on the enforcement of the law pending its contest or constitutionality by appeal to the U.S. Supreme Court. I expect that to happen.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. Mr. Speaker, I am happy to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from California [Mr. DANNEMEYER] for yielding. I would like to inform the gentleman from California that I was informed yesterday in my district where I have written a couple of columns on the dial-a-porn, and the invitation that it extends to young people and what it leads to, and that a local newspaper was notified that the distributors of this material formed a PAC of over a half a million dollars and that they intend to go after any legislators who have raised any kind of objection to what they are doing and what they are distributing.

I just think we should know that.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague, the gentlewoman from Maryland [Mrs. BENTLEY], for pointing that out.

Mr. Speaker, there is little doubt in this Member's mind that the procedure that I outlined before will take place, that is to say an injunction will be obtained by the pornography industry in America to enjoin the enforcement of this law and that will then work its way up through the court system and ultimately be passed upon in terms of constitutionality by the U.S. Supreme Court. This will give the people who argued on the other side of this issue 3 weeks ago an opportunity for pursuing the adoption of the amendment that they think we should adopt in order to avoid the contest over constitutionality and the sense of that amendment would entail in practical effect the continued availability of dial-a-porn in America.

Some of the elements of that amendment they are working on would be that dial-a-porn would be available for a subscriber in a household who asks that it be made available, but the difficulty with that is readily apparent when one reflects on the fact that it is not easy, in fact it is impossible, to prohibit the use of the telephone to somebody under 18 years of age. We all know today that many parents both work outside the home and as a result there are times when that household is left unattended unfortunately and kids can use that telephone in a household where the sub-

scribers ask for the availability of dial-a-porn.

Another element of it would make it limited only to those using a credit card.

Mr. Speaker, I believe the correct policy alternative for us to be pursuing is to just prohibit it. I think that says an eloquent statement as to whether or not this trash should be available.

Mr. Speaker, these are the reasons that I am making this motion to instruct conferees today and I hope that my colleagues will support this motion and prohibit what most of us believe in our society does nothing to elevate the status of our culture or to suggest that such activities or such comments do anything but say to those of us living today that it is a value system that we approve for ourselves and our children, or a value system that we want to pass on to the next generation. The proper vote today is to prohibit it flat out.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore [Mr. GRAY of Illinois]. The question is on the motion to instruct offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 274, nays 17, answered "present" 24, not voting 118, as follows:

(Roll No. 14)

YEAS—274

- | | | |
|-----------|--------------|---------------|
| Anderson | Clement | English |
| Anzures | Clinger | Erdreich |
| Applegate | Costa | Evans |
| Archer | Coble | Fawell |
| Army | Coleman (MO) | Feighan |
| Aspin | Collins | Fields |
| Bartlett | Combest | Fish |
| Barton | Conde | Fippo |
| Bateman | Cooper | Florio |
| Bennett | Coughlin | Ford (TN) |
| Bentley | Coyne | Frenzel |
| Beverter | Craig | Frost |
| Bivill | Crane | Galleghy |
| Bilbray | Dannemeyer | Gallo |
| Billey | Darden | Gaydos |
| Boehmert | de la Garza | Gekas |
| Boops | DeFazio | Gibbons |
| Boland | DeLay | Gilman |
| Bonior | Derrick | Gingrich |
| Bonker | DeWine | Glickman |
| Brennan | Dickson | Gooding |
| Boehner | Dicks | Gordon |
| Bunning | Donnally | Gradison |
| Byron | Dorgan (ND) | Grandy |
| Callahan | Downey | Grant |
| Campbell | Dreier | Gray (IL) |
| Cardin | Duncan | Gray (PA) |
| Carper | Durbin | Guarini |
| Carr | Dwyer | Hall (OH) |
| Chandler | Dyren | Hamilton |
| Chappell | Early | Hammerschmidt |
| Cheney | Edgart | Harris |
| Clarke | Emerson | Hastert |

- | | | |
|---------------|---------------|----------------|
| Hatcher | Meyers | Schneller |
| Hays (LA) | Mica | Schroeder |
| Hefley | Michel | Schuetter |
| Hefner | Miller (OH) | Schumer |
| Henry | Miller (WA) | Sensenbrenner |
| Herser | Mineta | Sharp |
| Hertel | Moakley | Shays |
| Hochbraeckner | Mollohan | Shumway |
| Hopkins | Montgomery | Shuster |
| Houghton | Moody | Sikorski |
| Hubbard | Moorhead | Sisisky |
| Hughes | Morella | Skaggs |
| Hutto | Morrison (WA) | Skeen |
| Hyde | Mrazek | Skelton |
| Inhofe | Murtha | Slattery |
| Ireland | Myers | Slaughter (NY) |
| Jacobs | Nagle | Slaughter (VA) |
| Jenkins | Natcher | Smith (NE) |
| Johnson (CT) | Neal | Smith (TX) |
| Johnson (SD) | Nelson | Smith, Denny |
| Jones (NC) | Nichols | (OR) |
| Jones (TN) | Nielson | Smith, Robert |
| Kanjorski | Norwak | (OR) |
| Kasich | Obey | Snowe |
| Kastenmeier | Olin | Solomon |
| Kennedy | Owens (UT) | Spratt |
| Kildee | Oxley | St Germain |
| Kolbe | Panetta | Staggers |
| Koiter | Parris | Stallins |
| Konnyu | Pashayan | Stenholm |
| Kostmayer | Patterson | Stratton |
| Kyl | Penny | Sundquist |
| LaFalce | Pepper | Tallon |
| Lagomarsino | Perkins | Tauke |
| Lancaster | Petri | Tauzin |
| Lantos | Pickett | Taylor |
| Latta | Porter | Thomas (CA) |
| Leach (IA) | Price (IL) | Thomas (GA) |
| Lehman (CA) | Price (NC) | Torres |
| Lehman (FL) | Pursell | Traxler |
| Lent | Rahall | Udall |
| Levin (MI) | Ray | Upton |
| Lipinski | Regula | Valentine |
| Livingston | Rhodes | Vento |
| Lloyd | Richardson | Volkmer |
| Lott | Ridge | Vucanovich |
| Lujan | Rinaldo | Walker |
| Luken, Thomas | Roberts | Walkins |
| MacKay | Roe | Weldon |
| Madigan | Rogers | Whittaker |
| Martin (NY) | Rose | Whitten |
| Martinez | Roth | Williams |
| Mazoli | Roukema | Wise |
| McCandless | Rovland (CT) | Wolpe |
| McCloskey | Russo | Wortley |
| McCurdy | Saiki | Wyden |
| McDade | Saxton | Yatron |
| McMillan (NC) | Schaefer | Young (AK) |
| McMillen (MD) | Scheuer | Young (FL) |

NAYS—17

- | | | |
|--------------|---------------|--------|
| Bellenson | Frank | Stokes |
| Berman | Green | Studds |
| Brown (CA) | Morrison (CT) | Weiss |
| Dingell | Rangel | Wheat |
| Edwards (CA) | Roybal | Yates |
| Ford (MI) | Stark | |

ANSWERED "PRESENT"—24

- | | | |
|----------|-------------|-----------|
| Atkins | Hawkins | Poase |
| Bates | Hoyer | Pelosi |
| Boxer | Leland | Rodino |
| Dellums | Levine (CA) | Sabo |
| Dymally | Lewis (GA) | Swift |
| Fazio | Markey | Synar |
| Foley | McHugh | Vlascosky |
| Gonzales | Owens (NY) | Waxman |

NOT VOTING—118

- | | | |
|------------|--------------|------------|
| Ackerman | Bryant | Flake |
| Akaka | Burton | Foglietta |
| Alexander | Bustamante | Garcia |
| Andrews | Chapman | Gejdenson |
| Anthony | Clay | Gephardt |
| AuCoin | Coelho | Gregg |
| Badham | Coleman (TX) | Gunderson |
| Baker | Conyers | Hall (TX) |
| Ballenger | Courter | Hansen |
| Barnard | Crockett | Hayes (IL) |
| Blagyi | Daub | Hiler |
| Blirakis | Davis (IL) | Holloway |
| Borah | Davis (MI) | Horton |
| Bosco | DiGuardi | Howard |
| Boucher | Dixon | Huckaby |
| Boulter | Dornan (CA) | Hunter |
| Brooks | Dowdy | Jeffords |
| Brownfield | Edwards (OK) | Jonts |
| Brews (CO) | Espy | Kaptur |
| Bruce | Passell | Kemp |

Kennedy	Miller (CA)	Smith (IA)
Klecka	Molinar	Smith (NJ)
Leath (TX)	Murphy	Smith, Robert
Lewis (CA)	Oakar	(NH)
Lewis (FL)	Oberstar	Solarz
Lightfoot	Ortiz	Spence
Lowery (CA)	Packard	Stangeland
Lowry (WA)	Pickle	Stump
Lukens, Donald	Quillen	Sweeney
Lungren	Ravenel	Swindall
Mack	Ritter	Torricelli
Manton	Robinson	Towns
Marlenee	Roemer	Trafficant
Martin (IL)	Hostenkowski	Vander Jagt
Matsui	Rowland (GA)	Walgren
Mastoulez	Savage	Weber
McCollum	Sawyer	Wilson
McEwen	Schulze	Wolf
McGrath	Shaw	Wyllie
Mfume	Smith (FL)	

□ 1355

Mr. EDWARDS of California changed his vote from "yea" to "nay."

Mrs. BOGGS changed her vote from "nay" to "yea."

Mrs. BOXER, Mr. VISCLOSKEY, and Mr. WAXMAN changed their votes from "nay" to "present."

Mr. BATES and Mr. LEWIS of Georgia changed their votes from "yea" to "present."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HILER. Mr. Speaker, on rollcall No. 14, I was unavoidably detained. Had I been present, I would have voted "aye."

RESOLUTION PROVIDING FOR CONSIDERATION OF JOINT RESOLUTION TO PROVIDE ASSISTANCE AND SUPPORT FOR PEACE, DEMOCRACY, AND RECONCILIATION IN CENTRAL AMERICA

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 00-507) on the resolution (H. Res. 390) providing for the consideration of a joint resolution to provide assistance and support for peace, democracy, and reconciliation in Central America, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 557, CIVIL RIGHTS RESTORATION ACT OF 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-508) on the resolution (H. Res. 391) providing for the consideration of the bill (S. 557) to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964, which was referred to the

House Calendar and ordered to be printed.

□ 1400

REPORT ON THE SITUATION IN HAITI, PANAMA, AND CENTRAL AMERICA

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from New York (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, on many previous occasions I have spoken about the fact that the present situation in Haiti is an intolerable one. The present situation in Haiti is closely related to another crisis that we are facing in this hemisphere. The present situation in Haiti is closely related to a very important conference that is being held now under the sponsorship of the White House, a conference for a drug-free America.

The present situation in Haiti is related to what is happening in Panama, the fact that in Panama you have a criminal indictment that has been brought against the Commander in Chief of the Panamanian Armed Forces and the President of that country has chosen to remove him. He has refused that order.

The entire country has been thrown into chaos and nevertheless, General Noriega sits there. On several previous occasions I have linked these elements in terms of what is happening in this hemisphere. The second strongest power in the Western Hemisphere is the South American drug mob. The South American drug mob is closely linked to what is happening in Panama, it is closely linked to what is happening in Haiti and, of course, we know the South American drug mob has killed numerous prosecutors in other Latin American countries. They have also killed judges, they have attempted to take the entire courthouse in Peru with tanks and 11 judges perished.

The South American drug mob goes riding along without being checked at all by any force in this hemisphere. Instead of checking the South American drug mob, we have found our CIA has made deals with them. Our drug enforcement agents have praised Noriega. We find that members of the State Department are reluctant to apply sanctions against these countries that are conduits for the drugs coming to America and threaten to poison our entire social structure.

Last week in New York City—yesterday in New York City a funeral was held for police officer Edward Byrne. He is a police officer who was gunned down in his own patrol car while he sat guarding a witness in a drug case in southeast Queens.

That case was a message. The South American drug mob was sending a message to the New York City Police

Department and the rest of the criminal justice system that they are ready to take them on.

What has happened all over South America has now come home to the United States. We can see more and more, we will see more and more violence perpetuated by the South American drug mob against judges, against policemen, against the entire society.

We must now resolve to act forcefully, united against the South American drug mob. This is a place where conservatives can unite with liberals, blacks unite with whites; we are all threatened by the power of the South American drug mob.

We can begin by saying to the President, "Do not certify the countries in this hemisphere such as Panama, Haiti, and Mexico, do not certify that they are cooperating with the efforts to decrease the drug traffic," when they are not.

It has been recommended by the bureau in the State Department responsible for this activity that they not be certified. Do not certify Haiti, do not certify Panama, do not say that they are doing what they are not doing. Let us cut off aid, let us remove certain privileges, let us stop using the taxpayers' money for the countries that are conduits for the drugs that are coming into this Nation.

Above all, let us take a close look at Haiti. Haiti is under the influence and domination of the commissar for drugs in that country. His name is Col. Jean Claude Paul. There is a threat that he might also be indicted just as Noriega was indicted. But Col. Jean Claude Paul is the commander of the Dessaline battalion in Port-au-Prince, Haiti. He is the person who gives the orders to the army. He is the person that the general who heads the armed forces fears. He is the person behind the massacre of November 29, the massacre of people who went out to vote in Haiti. The bloodstained Government of Haiti now in the palace in Port-au-Prince is there because of Jean Claude Paul. They would not be there if Jean Claude Paul and his murderous brigands had not gone out and murdered people in cold blood at the polls. They won by murdering people in cold blood at the polls on November 29, they won the right to go and run their own elections, their own crooked election, the election which was supported by less than 5 percent of the people. Yet they have installed themselves in the palace as a government. And we are about to recognize that government, not only is the United States going to certify that Haiti is cooperating in the prevention of drug traffic into this country, they are also going to move to the point we are going to recognize this bloodstained government in Haiti as a legitimate government.

What it does is put the South American drug commissars in power as the domineering force in one more country. I hope the gentleman will move to