

PUNISHING DEPICTIONS OF ANIMAL CRUELTY

OCTOBER 19, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCCOLLUM, from the Committee on the Judiciary,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1887]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1887) amending title 18, United States Code, to punish the depiction of animal cruelty, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. PUNISHMENT FOR DEPICTION OF ANIMAL CRUELTY.**

(a) IN GENERAL.—Chapter 3 of title 18, United States Code, is amended by adding at the end the following:

**“§ 48. Depiction of animal cruelty**

“(a) CREATION, SALE, OR POSSESSION.—Whoever knowingly creates, sells, or possesses a depiction of animal cruelty with the intention of placing that depiction in interstate or foreign commerce for commercial gain, shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) EXCEPTION.—Subsection (a) does not apply to any depiction that has serious religious, political, scientific, educational, journalistic, historical, or artistic value.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘depiction of animal cruelty’ means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording of conduct in which a living animal is intentionally maimed, mutilated, tortured, wounded, or killed, if such conduct is illegal under Federal law or the law of the State in which the creation, sale, or possession takes place, regardless of whether the maiming, mutilation, torture, wounding, or killing took place in the State; and

“(2) the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.”

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following:

“48. Depiction of animal cruelty.”

PURPOSE AND SUMMARY

H.R. 1887 enacts a new section in title 18 of the United States Code to make it a crime to create, sell, or possess any visual depiction of animals being tortured with the intent to place that depiction in interstate or foreign commerce for commercial gain. Violations of the new statute would be punishable by a fine or imprisonment for not more than 5 years, or both.

BACKGROUND AND NEED FOR THE LEGISLATION

At a hearing on the bill before the committee’s Subcommittee on Crime, a California State prosecutor and a police officer described how they came to learn about a growing market in videotapes and still photographs depicting insects and small animals being slowly crushed to death. While most of this material featured torture to mice, hamsters, and other small animals, their investigation did find depictions of cats, dogs, and even monkeys being tortured. Much of the material featured women inflicting the torture with their bare feet or while wearing high heeled shoes. In some video depictions, the woman’s voice can be heard talking to the animals in a kind of dominatrix patter. The cries and squeals of the animals, obviously in great pain, can also be heard in the videos.

The witnesses explained that, through their investigation into the sale of these materials, they learned that these depictions often appeal to persons with a very specific sexual fetish who find them

sexually arousing or otherwise exciting. The materials were commonly available through the Internet, and were almost exclusively distributed for sale through interstate or foreign commerce. Many Internet sites were blatant in offering to sell these depictions, and some even advertised to make such depictions to order, in whatever manner the customer wished to see the animal tortured and killed.

The witnesses testified that the faces of the women inflicting the torture in the material often were not shown, nor could the location of the place where the cruelty was being inflicted or the date of the activity be ascertained from the depiction. As a result, defendants arrested for violating a State cruelty to animals statute in connection with the production and sale of these materials in that State often were able to successfully assert as a defense that the State could not prove its jurisdiction over the place where the act occurred or that the actions depicted took place within the time specified in the State statute of limitations. While all States have some form of a cruelty to animal statutes, none have a statute that prohibits the sale of depictions of such cruelty. Accordingly, according to the witnesses, only if the person making these depictions were caught in the act (often through some type of undercover operation) could the State's laws be brought to bear on their actions, and then only for the cruelty itself, not for the production and sale of the depictions.

As Congress alone has the power to regulate interstate commerce, it is appropriate for it to act to stop the trade in these materials in interstate and foreign commerce that affect the United States. This bill does that. It does not punish the acts of cruelty themselves, rather it prohibits the creation, sale, or possession of depictions of such cruelty with the intent to place them into interstate or foreign commerce for commercial gain. The intent to affect interstate or foreign commerce is a key element of this new Federal crime. The statute is intended to augment, not supplant, State animal cruelty laws by addressing behavior that may be outside the jurisdiction of the States, as a matter of law, and appears often beyond the reach of their law enforcement officials, as a practical matter.

The Government has an interest in regulating the treatment of animals. All 50 States have enacted statutes that make it a crime to inflict cruelty on animals. Congress has also previously enacted laws to require the humane care and treatment of animals.<sup>1</sup> These legislative enactments evidence society's desire to ensure that animals are treated humanely.

Our society values animals for many purposes. Animals have long been used, and valued, for their utility—whether as sources of food or clothing, or as laborers. And animals are often even more valued as providers of entertainment and even companionship. For some time, the proper treatment of animals has been debated. Cruelty to these animals is often the subject of news reports garnering widespread public interest. Organizations which work to improve

<sup>1</sup>E.g., 7 U.S.C. §2131, et seq., requires the humane handling, care, treatment, and transportation of animals held for sale in interstate commerce, or which will be used in a Government or private research facility; 7 U.S.C. §1902 requires that animals to be slaughtered must be killed in a humane manner and even specifies ways in which that can be accomplished in accord with the statute; 46 U.S.C. §3901 dictates the treatment of animals while they are being transported by rail or common carrier in interstate or foreign commerce.

the treatment of animals in our society are active participants in political dialog. The committee is of the view that the great majority of Americans believe that all animals, even those used for mere utilitarian purposes, should be treated in ways that do not cause them to experience excessive physical pain or suffering. The committee recognizes the widespread belief that animals, as living things, are entitled to certain minimal standards of treatment by humans. And so, it is proper for our nation's laws reflect society's desire that animals be treated appropriately.

The committee also notes the increasing body of research which suggests that humans who kill or abuse others often do so as the culmination of a long pattern of abuse, which often begins with the torture and killing of animals. When society fails to prevent these persons from inflicting harm upon animals as children, they may fail to learn respect for any living being. If society fails to prevent adults from engaging in this behavior, they may become so desensitized to the suffering of these beings that they lose the ability to empathize with the suffering of humans. In either case, society's failure to require that living things be treated appropriately may lead some people to be more likely to act upon their desires to inflict harm upon those around them. In short, society has an interest in preventing any disregard for living animals. And so, the committee believes that society has an interest in preventing its citizens from gaining access to materials which may encourage a lack of respect for those animals.

The committee believes that the statute to be enacted by H.R. 1887 has been narrowly drawn to proscribe only a limited class of material. The committee believes that this material, as narrowly defined in the bill, has little or no social utility. By the very terms of the statute, material depicting cruelty to animals that has serious utility—whether it be religious, political, scientific, educational, journalistic, historic, or artistic—falls outside the reach of the statute. While the exclusion described in the statute is expressed in seven different categories, the committee believes that any material depicting animal cruelty which society would find to be of at least some minimal value, falls within one of these broad, general categories.

Not all speech is entitled to the protection of the First Amendment. As the Supreme Court has held, the First and Fourteenth Amendments have never been treated as absolutes. *Miller v. California*, 413 U.S. 15, 23 (1973) (citing *Breard v. Alexandria*, 341 U.S. 622 (1951)). The question whether speech is or is not protected by the First Amendment often depends on the content of the speech. *Young v. American Mini Theaters, Inc.*, 427 U.S. 50, 66 (1976). The courts have upheld as constitutional the Government's decision to prohibit the sale of obscene material (*Miller*) and even the sale of non-obscene material that depicts children in a pornographic way. *New York v. Ferber*, 458 U.S. 747 (1982). In both instances, these materials were found to lie outside of the protection of the First Amendment. Even before these decisions, the Court held that some speech, such as libelous material, was not protected by the Constitution. See, *Beauharnais v. Illinois*, 343 U.S. 250 (1952). And since these decisions, the Court has continued to acknowledge that other forms of speech also lie beyond the protection

of the First Amendment. See, e.g., *R.A.V. v. City of St. Paul*, 505 U.S. 377, 388 (1992) (fighting words).

In each of these cases, the Government has imposed a content-based restriction on the form of speech. As the Supreme Court stated in *Ferber*, “It is not rare that a content—based classification of speech has been accepted because it may be appropriately generalized that within the confines of the given classification, the evil to be restricted so overwhelmingly outweighs the expressive interest, if any, at stake, that no process of case by case adjudication is required.” *Ferber*, 458 U.S. 747, 763–64 (1982). And so the committee, in enacting new section 48 is also enacting a content-based restriction on a narrow class of speech as to which it believe no case by case adjudication is required.

The committee believes that no reasonable person would find any redeeming value in the material proscribed by the new statute. Even attributing some minimal value to the material for the sake of argument, the committee believes that the harm from the continued commercial sale of the material so outweighs any value of the material that it is appropriate to prohibit the creation, sale, or the possession of such material in their entirety, provided that the Government can prove that these acts were done with the intent to place the material in interstate or foreign commerce affecting the United States. The committee believes that in the case of the material to which this statute is addressed, the harm to be restricted so outweighs the expressive interest, if any, at stake, that the materials may be prohibited as a class.

The committee has drafted this statute carefully so that it restricts content, but not viewpoint. Persons holding the view that this type of behavior is acceptable are still free to use any means of interstate commerce to express that view, to discuss the benefits of this material in whatever way they believe them to exist, and even to urge that this new statute be repealed. The freedom to profess that viewpoint is unaffected by this statute. What is restricted is the commercial pandering of graphic depictions of the actual torture of a real animal.

#### HEARINGS

The committee’s Subcommittee on Crime held one day of hearings on H.R. 1887 on September 30, 1999. Testimony was received from three witnesses, representing two organizations, with no additional material submitted for the record. Testifying before the subcommittee were Loretta Swit, Actors and Others for Animals; Tom Connor, Deputy Prosecutor, Ventura County (CA) District Attorney’s Office; and Susan Creede, Investigator, Ventura County (CA) District Attorney’s Office.

#### COMMITTEE CONSIDERATION

On October 7, 1999, the Subcommittee on Crime met in open session and ordered favorably reported the bill H.R.1887, as amended, by a vote of 8 to 2, a quorum being present. On October 13, 1999, the committee met in open session and ordered favorably reported the bill H.R. 1887 with an amendment by a recorded vote of 22 to 4, a quorum being present.

## VOTE OF THE COMMITTEE

On the question of reporting the bill favorable to the House, the recorded vote was as follows:

	Ayes	Nays	Present
Mr. Sensenbrenner .....			
Mr. McCollum .....			
Mr. Gekas .....	X		
Mr. Coble .....	X		
Mr. Smith (TX) .....	X		
Mr. Gallegly .....	X		
Mr. Canady .....	X		
Mr. Goodlatte .....	X		
Mr. Chabot .....	X		
Mr. Barr .....		X	
Mr. Jenkins .....	X		
Mr. Hutchinson .....	X		
Mr. Pease .....			
Mr. Cannon .....	X		
Mr. Rogan .....			
Mr. Graham .....			
Ms. Bono .....			
Mr. Bachus .....	X		
Mr. Scarborough .....			
Mr. Vitter .....	X		
Mr. Conyers .....	X		
Mr. Frank .....	X		
Mr. Berman .....	X		
Mr. Boucher .....			
Mr. Nadler .....	X		
Mr. Scott .....		X	
Mr. Watt .....		X	
Ms. Lofgren .....	X		
Ms. Jackson Lee .....	X		
Ms. Waters .....		X	
Mr. Meehan .....			
Mr. Delahunt .....			
Mr. Wexler .....	X		
Mr. Rothman .....	X		
Ms. Baldwin .....	X		
Mr. Weiner .....			
Mr. Hyde, Chairman .....	X		
Total .....	22	4	

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## COMMITTEE ON GOVERNMENT REFORM FINDINGS

No findings or recommendations of the Committee on Government Reform were received as referred to in clause 3(c)(4) of rule XIII of the Rules of the House of Representatives.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

## COMMITTEE COST ESTIMATE

At the time of filing this report, no cost estimate from the Congressional Budget Office had been received. In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the committee believes that H.R. 1887 would not result in any significant cost to the Federal Government. The committee also estimates that any impact on direct spending and receipts would not be significant.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, section 8, of the Constitution.

## SECTION-BY-SECTION ANALYSIS AND DISCUSSION

*Section 1. Punishment for Depiction of Animal Cruelty.*

The bill consists of one section. That section enacts new section 48 in chapter 3 of title 18 of the United States Code (which deals with activities involving animals, birds, fish, and plants). New section 48 prohibits the creation, sale, or possession of a depiction of animal cruelty with the intention of placing that depiction in interstate or foreign commerce for commercial gain. The phrase “depiction of animal cruelty” is defined in the bill to mean any visual or auditory depiction, including any photograph, motion picture film, video recording, electronic image, or sound record in which a living animal is intentionally maimed, mutilated, tortured, wounded, or killed if such conduct is illegal under Federal law or the law of the State in which the creation, sale, possession takes place, regardless of whether the maiming, mutilation, torture, wounding, or killing took place in the State.”

The term “animal” as used in the statute should be given its common, rather than scientific, meaning. It is not the committee’s intent that the term include, for example, insects, invertebrates, crustaceans, or fishes. Further, to fall within the reach of the statute, the depiction must be of a real animal. Also, the statute does not apply to simulated depictions of animal cruelty. Therefore, material in which cruelty to a real animal is only simulated or which is accomplished only through “special effects” processes is not covered by the statute.

The new section punishes the creation of the material, the sale of the material, or the possession of the material only if such act was done with the intent of placing the it in interstate or foreign commerce for commercial gain. The Government need not prove that the material actually did move in interstate commerce for the Government to prove a violation of the statute. However, in such a case, it must prove that the defendant had intended to place it in that stream of commerce at some point in the future.

Similarly, the Government must also prove that the intent of the defendant in creating, selling, or possessing the material was, at least in part, for commercial gain. Thus, mere possession of the material described in the statute by a person for his or her own private use is not prohibited by the statute. The Government need not prove that the defendant actually profited financially from his or her actions, rather only that the defendant's intent was, at least in part, to gain financially from the material.

Further, in order to fall within the conduct prohibited by new section 48, the conduct depicted must be illegal under Federal law or the law of the State in which the creation, sale, or possession takes place. Thus, depictions of ordinary hunting and fishing activities do not fall within the scope of the statute. The term sale is meant to include both the place from which the seller sends it and the place where the buyer receives it. Thus, if a person selling such a depiction in interstate commerce sends the depiction from a State where the conduct depicted, had it occurred in that State, would be illegal, the act of placing the material into interstate commerce violates the statute even if the act depicted might not be prohibited by the law of the place to which the seller sends it. Similarly, if the act depicted would violate the law of the place in which the buyer is located, had it occurred there, the seller violates the statute, even though the act depicted might not be prohibited by the law of the State where the seller was located at the time he or she sent the depiction into interstate commerce.

The Government is not required to prove that the animal cruelty depicted violated the law of the place where the cruelty actually took place. The activity prohibited by this bill is not the animal cruelty itself. Rather, the illegal activity is the creation, sale, or possession of a depiction of such cruelty with the intent to use interstate or foreign commerce to distribute it for commercial gain. Accordingly, the bill does not criminalize the mere possession of such depictions for one's private use. Possession of the material is only prohibited when coupled with the intent to transmit it in interstate commerce for commercial gain. The Government bears the burden of proving the defendant's intent.

The new section does not apply to the creation, sale, or possession of a depiction of animal cruelty if the material has serious religious, political, scientific, educational, journalistic, historic, or artistic value. This exclusion is designed to ensure that the creation, sale, and possession of material with at least some value recognized by society is not hampered by the statute. The defendant bears the burden of proving the value of the material by a preponderance of the evidence. Examples of material to which the statute does not apply would include television documentaries about Spain which depict bullfighting or which show poachers killing elephants for their tusks, Doris Day Animal League training materials on the problem of cruelty to animals, and information packets sent by animal rights organizations to community and political leaders urging them to act to combat the problem of cruelty to animals.

#### AGENCY VIEWS

No agency views have been received with respect to the bill, H.R. 1887.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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 (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

**CHAPTER 3 OF TITLE 18, UNITED STATES CODE**

**CHAPTER 3—ANIMALS, BIRDS, FISH, AND PLANTS**

Sec.							
41.	Hunting, fishing, trapping; disturbance or injury on wildlife refuges.						
		*	*	*	*	*	*
48.	<i>Depiction of animal cruelty.</i>						
		*	*	*	*	*	*

**§48. *Depiction of animal cruelty***

(a) *CREATION, SALE, OR POSSESSION.—Whoever knowingly creates, sells, or possesses a depiction of animal cruelty with the intention of placing that depiction in interstate or foreign commerce for commercial gain, shall be fined under this title or imprisoned not more than 5 years, or both.*

(b) *EXCEPTION.—Subsection (a) does not apply to any depiction that has serious religious, political, scientific, educational, journalistic, historical, or artistic value.*

(c) *DEFINITIONS.—In this section—*

(1) *the term “depiction of animal cruelty” means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording of conduct in which a living animal is intentionally maimed, mutilated, tortured, wounded, or killed, if such conduct is illegal under Federal law or the law of the State in which the creation, sale, or possession takes place, regardless of whether the maiming, mutilation, torture, wounding, or killing took place in the State; and*

(2) *the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.*

## DISSENTING VIEWS

H.R. 1887 makes it a crime to create or possess or sell a film that depicts an act involving the intentional maiming, mutilating, wounding or killing of an animal if it is an illegal act in the jurisdiction in which such film is created, possessed or sold. While most anyone would find such films disturbing, “the fact that society may find speech offensive is not a sufficient reason for suppressing it.” *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 55 (1988). “If there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” *United States v. Eichman*, 496 U.S. 310, 319 (1990).

All States already have some form of animal protection laws which would likely prohibit the crushing of animals in the manner depicted on the so-called “crush video” films. Proponents of the bill argue that prohibiting dissemination of “crush videos” will have the effect of deterring the actual act of crushing animals. However, films of animals being crushed are communications about the acts depicted, not the doing of the acts. Shooting, possessing or selling such films are distinct from the act crushing an animal. These are activities similar to “cops on the beat” shows using closed-circuit films of actual robberies or other crimes in order to compete for ratings and the advertising revenues these ratings bring in. Communication through film is speech which is protected by the First Amendment to the United States Constitution

The Supreme Court has consistently refused to carve out new exceptions to the First Amendment. Although one cannot yell “fire” in a crowded theater and one cannot traffic in child pornography, speech has been restricted in very few instances. Obscene speech is one type of speech that has been restricted by law. However, to be declared obscene, material must meet several tests. First, it has to appeal to a prurient, or sexually unhealthy and degrading, interest. Second it has to violate contemporary community standards, which are judged on a State by State basis. And third, taken as a whole, it must be utterly lacking in redeeming literary, artistic, political, or scientific merit. While the videos to which H.R. 1887 would apply include images of women’s legs and high heeled shoes, there are not any cases in which such exposure has been found to be obscene.

### *Compelling Governmental Interest*

Another way in which speech can be restricted is when there is a compelling governmental interest in restricting the speech. However, any such restriction must meet the “strict scrutiny” test which requires that it is 1) necessary to serve a compelling governmental interest, and 2) is narrowly drawn to achieve that end. *Ar-*

*kansas Writers' Project, Inc. v. Ragland*, 481 U.S. 221, 231 (1987); *Simon & Schuster v. Crime Victims Bd.*, 502 U.S. 105 (1991).

Although it is clear that governmental interests in protecting human rights may be sufficiently compelling to overcome fundamental rights (*Arkansas Writer's Project* and *Simon & Schuster*, supra) the question posed by the bill is whether protecting animal rights counterbalances a human's fundamental rights. While the question has not been directly addressed by the Supreme Court, it would seem from the *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993) case that the answer is "no."

In *Church of Lukumi Babalu Aye, Inc.*, the City of Hialeah enacted various ordinances to prevent cruelty to animals by prohibiting animal sacrifices which form a part of the Santerian religion. One of the asserted bases for the ordinances was protection of animals. Although the District Court found a compelling governmental interest, inter alia, in protecting animals, the Supreme Court invalidated those ordinances as infringements upon the First Amendment's Free Exercise Clause. The court noted the problem of distinguishing what is done to animals for food, clothing and pest control from what was being done to them by the Santerians. Although the Supreme court recognized the governmental interest in protecting animals from cruelty, as against the constitutional right of free exercise of religion the governmental interest did not prevail. Therefore, it seems that, on balance, animal rights do not supersede fundamental human rights. Here, while Government can and does protect animals from acts of cruelty, to make possession of films of such acts illegal would infringe upon the free speech rights of those possessing the films. To do so, the "strict scrutiny" test must be met.

Proponents of the bill argue protection of animals is a compelling governmental interest. However, like the District Court in *City of Hialeah*, the argument is advanced with little cogent support. In general, "compelling governmental interest" relies on some protection of a citizen's safety. The closest citizen's safety argument made by proponents is to suggest a correlation between serial killers and the indication that they often begin by torturing animals. Yet, the suggestion is that serial killers actually torture animals themselves. The testimony at the hearing on this issue revealed that in animal crush videos, the person seeking satisfaction is the person watching the act or video, not the one crushing the animal. And there is no indication that the person actually torturing the animal did so for any motive other than getting paid. Therefore, the serial killer analogy does not appear to be an apt one for these videos and is too tenuous a connection to meet the "strict scrutiny" test necessary to restrict a fundamental human right.

*Narrow tailoring to achieve the asserted interest.*

Even if the bill were deemed to meet a compelling governmental interest, it still fails the "strict scrutiny" test because it is not sufficiently narrowly tailored. Although the bill is tailored to avoid some of the more obvious First Amendment issues, it is not under-inclusive. The proponents have exempted purely personal creation, possession or distribution of such videos. Making, possessing or distributing these videos is only prohibited if it is for the purpose of

selling (or intending to sell) in interstate or foreign commerce for commercial gain. The bill also exempts “serious political, scientific, educational, historical, religious, artistic, or journalistic” uses of any such films as legitimate purposes for disseminating them. And the bill makes illegal depictions that are not illegal where made if they are illegal in the State where possessed. For example, bullfighting is illegal in Virginia, so possessing or selling a film in Virginia which depicts a bullfight in Spain would, it seems, violate the act. In *Simon & Schuster*, the Court found some of the compelling governmental interests asserted by the State to be valid, but found the statute was not narrowly tailored to achieve only those interests.

So, although H.R. 1887 is designed to achieve a worthy goal, it fails to do so consistent with the First Amendment requirements. Under the provisions of the First Amendment, speech, including detestable speech, can be abridged only where there is a compelling governmental reason to do so and the abridgement is narrowly tailored. Accordingly, we dissent from the report on H.R. 1887.

ROBERT C. “BOBBY” SCOTT, M.C.  
MELVIN L. WATT.

#### ADDITIONAL DISSENTING VIEWS

These views dissent from the Judiciary Report on H.R. 1887, the “Punish the Depiction of Animal Cruelty” Act.

H.R. 1887 makes it a crime to create, sell or possess a film that depicts an act involving animal cruelty. While such acts are abhorrent, making this a priority for Federal law enforcement is not the correct way to address it.

All States already have enacted laws addressing pornography, as well as animal protection laws that would apply to these “crush videos.” I believe we should leave this issue to the States. If the citizens of a State want to change its animal cruelty law to strengthen or broaden them to cover the activities addressed by this proposed legislation, then it should be left up to that State to enact such laws.

Additionally, there are Federal anti-pornography laws in place that regulate the movement of pornography in interstate commerce. The Federal Government, if it so chooses, can use these laws to prosecute the offenders.

I believe it is a waste of time by this House to deal with an issue such as this, that can already be prosecuted using other methods. Moreover, the Department of Justice does not need to waste its resources on such matters. It should, instead, be focusing on enforcing existing laws, including, but not limited to, involving violence, drugs, corruption, and terrorism.

Although H.R. 1887 seeks to solve a societal problem, I do not believe this is an area that needs additional Federal legislation.

For these reasons, I respectfully, dissent from the report on H.R. 1887.

BOB BARR, MEMBER OF  
CONGRESS

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