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FEDERAL CRIMINAL CODE REVISION

One of Senator Edward Kennedy's uncompleted projects of recent years (in addition to running for President) was the sponsorship of a complete revision of the U.S. criminal code. His bill was quietly interred when Congress adjourned in December 1980.

On August 14 of this year, Presidential Counsellor Ed Meese met with Attorney General William French Smith, the Associate Attorney General, and two Assistant Attorneys General to discuss the Justice Department's proposal for rewriting all federal criminal laws. Apparently without the knowledge or participation of those top Justice Department officials, the Carter holdovers (usually described as "career" lawyers) in the Justice Department made their own modifications in the proposed criminal code recodification.

Fortunately, someone had apprised Ed Meese that bad provisions were tucked into the lengthy and complicated document. Meese is reported to have said, "Gentlemen, I suggest you go back and read the bill. And because it's a very long bill, I suspect that will take a very long time."

Now, two months later, that same defective Justice Department bill has been introduced as S. 1630 by conservative Senators who probably have not had time to read it. If enacted into law, it would represent a tremendous step backward in the enforcement of laws against immoral and obscene acts.

S. 1630 includes provisions to virtually repeal federal laws prohibiting prostitution and pornography. S. 1630 would reduce the maximum penalties for rape, statutory rape, drug trafficking, and child pornography.

Section 3311 would make it impossible to bring federal prosecutions such as the Memphis case that took the ~~vulgar~~ most immoral movie Deep Throat off the streets of Memphis. Section 1844, dealing with child pornography, would reduce the maximum penalties for trafficking dirty pictures of little children from ten years in prison to six years in prison for the first offense.

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Section 1842 would eliminate current anti-pornography laws in several ways. (1) It would remove the provision in the current law which prohibits the mailing or transportation of vile or obscene ~~articles~~ objects or substances.

(2) It would remove the prohibition in the current law that prohibits the use of obscene or vulgar language or pictures on the outsides of envelopes sent through the U.S. mails. (3) It would remove the prohibition in the current law that explicitly prohibits sending abortion-producing devices through the U.S. mails.

Current federal law prohibits transporting a woman across state lines for prostitution or any other immoral purpose. S. 1630 would prevent prosecution unless there were proof that the pimp played some pivotal role in the operation of a prostitution business.

The proposed S. 1630 would reduce the penalty for rape to a maximum of 12 years in prison; current law allows death or life imprisonment. S. 1630 would reduce the penalty for ordinary cases of statutory rape of a child from 25 years to six years. If the rapist is under 21, the penalty would be reduced to only one year (even if the victim is a four-year-old child). S. 1630 calls for no penalty at all where the age differential between the rapist and the victim is less than three years.

Current law punishes the most serious drug offense with 15 years' imprisonment for the first offense and 30 years for the second. S. 1630 would reduce this to 12 years and 25 years, respectively, and would also remove the special 25-year sentence for especially dangerous drug offenders.

S. 1630 would remove any reference to the death penalty from federal criminal law. It would allow trafficking in obscene pictures of little children. It would limit the prosecution of pornography shipped through the mails to materials so obscene that they could not be bought or sold under any circumstances.

It is unlikely that very many Senators and Representatives will want to go on record in favor of reducing the prosecution and penalties against obscenity, drugs, and rape. The sponsors of S. 1630 will be mightily embarrassed when their constituents find out what is lurking in the fine print of the bill which is being promoted as a "reform" and "recodification" of the federal criminal code.

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